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THE

WORKS

OF THE

RIGHT HON. EDMUND BURKE.

THE

WORKS

OF

THE RIGHT HONOURABLE

EDMUND BURKE.

MISCELLANEOUS.

VOL. V.

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CONTENTS.

Introductory Letter to the Right Hon. William Elliot, ... 1
Letters on a Regicide Peace, continued from Vol. IV.: Letter IV. to the Earl Fitzwilliam, ... 11
Letter to the Empress of Russia, dated November, 1791, ... 77
Letter to Sir Charles Bingham, Bart. dated October, 1773, on the Irish Absentee Tax, ... 80
Letter to the Honourable Charles James Fox, dated October, 1777, on the American War, ... 88
Letter to the Marquis of Rockingham, dated January, 1777, on a proposed Secession from Parliament of Members who had opposed the American War, ... 95
A proposed Address to the King, on the same subject, ... 101
Address to the British Colonists in North America, ... 115
Letter to the Right Hon. Edmund Perry, Speaker of the House of Commons of Ireland, dated July, 1778, on a Bill for the relief of His Majesty's Roman Catholic Subjects in Ireland, ... 124
Letter to Thomas Burgh, Esq. dated New-Year's Day, 1780, in vindication of the Author's Parliamentary Conduct, relative to the Affairs of Ireland, 129
Letter to John Merlott, Esq. an eminent merchant of Bristol, dated April, 1780, on the same subject as the preceding letter, ... 146
Letters (to the Lord Chancellor, to the Earl Bathurst, and to Sir Grey Cooper) with Reflections on the Executions of the Rioters in 1780, ... 149
Letter to the Right Honourable Henry Dundas, one of His Majesty's Principal Secretaries of State, dated Easter Monday Night, 1792, with a Sketch of a Negro Code, ... 158
Letter to the Chairman of the Buckinghamshire Meeting, held 13th April, 1780, at Aylesbury, on the Duration of Parliaments, and a more equal Representation of the People, ... 181
Tracts, relative to the Laws against Popery in Ireland, ... 185
Letter to William Smith, Esq. dated January, 1795; then Member of the Irish Parliament, now one of the Barons of the Court of Exchequer in Ireland; on the same subject, ... 224
Second Letter to Sir Hercules Langrishe, dated May, 1795; on the same subject, ... 231
Letter to Richard Burke, Esq. on the same Subject, ... 236
Letter on the Affairs of Ireland, written in the Year 1797, ... 253

+ 2 2 2 X 1 +

Fragments and Notes of Speeches in Parliament, ... 283
On the Acts of Uniformity, ... 265
On the Bill for the Relief of Protestant Dissenters, ... 276
On the Petition of the Unitarians, ... 286
On the Middlesex Election, ... 298
On a Bill for shortening the Duration of Parliaments, ... 308
On the Reform of the Representation in the House of Commons, . . 314
On the Powers of Juries in Prosecutions for Libels, ... 328
A Letter on the same Subject, ... 333
On a Bill for repealing the Marriage Act, ... 337
On the Dormant Claims of the Church, ... 341
Hints for an Essay on the Drama, ... 344

An Abridgment of English History; *from the Invasion of Julius Cæsar to the end of the Reign of King John.—In Three Books:—Viz.*

Book I. Chap. I.—Causes of the Connexion between the Romans and Britains.—Cæsar's two Invasions of Britain, ... 355
Chap. II.—Some Account of the ancient Inhabitants of Britain, . . 368
Chap. III.—The Reduction of Britain by the Romans, ... 377
Chap. IV.—The Fall of the Roman Power in Britain, ... 394

Book II. Chap. I.—The Entry and Settlement of the Saxons, and their Conversion to Christianity, ... 408
Chap. II.—Establishment of Christianity; of Monastic Institutions; and of their Effects, ... 412
Chap. III.—Series of Anglo-Saxon Kings from Ethelbert to Alfred; with the Invasion of the Danes, ... 423
Chap. IV.—Reign of King Alfred, ... 427
Chap. V.—Succession of Kings from Alfred to Harold, ... 433
Chap. VI.—Harold.—Invasion of the Normans—Account of that People, and of the state of England at the time of the Invasion, . 441
Chap. VII.—Of the Laws and Institutions of the Saxons, ... 448

Book III. Chap. I.—View of the state of Europe at the time of the Norman Invasion, ... 471
Chap. II.—Reign of William the Conqueror, ... 480
Chap. III.—Reign of William the Second, surnamed Rufus, . . . 500
Chap. IV.—Reign of Henry I. 508
Chap. V.—Reign of Stephen, ... 516
Chap. VI.—Reign of Henry II. 521
Chap. VII.—Reign of Richard I. 544
Chap. VIII.—Reign of John, ... 552
Chap. IX.—Fragment: An Essay towards an History of the Laws of England, ... 579

TO THE

RIGHT HON. WILLIAM ELLIOT.

MY DEAR SIR,

As some prefatory account of the materials, which compose this second posthumous volume of the works of Mr. Burke, and of the causes which have prevented its earlier appearance, will be expected from me, I hope I may be indulged in the inclination I feel to run over these matters in a letter to you, rather than in a formal address to the public.

Of the delay that has intervened since the publication of the former volume, I shall first say a few words. Having undertaken, in conjunction with the late Dr. Lawrence, to examine the manuscript papers of Mr. Burke, and to select and prepare for the press such of them as should be thought proper for publication, the difficulties attending our co-operation were soon experienced by us. The remoteness of our places of residence in summer, and our professional and other avocations in winter, opposed perpetual obstacles to the progress of our undertaking.

Soon after the publication of the fourth volume, I was rendered incapable of attending to any business, by a severe and tedious illness. And it was not long after my recovery, before the health of our invaluable friend began gradually to decline; and soon became unequal to the increasing labours of his profession, and the discharge of his parliamentary duties. At length we lost a man, of whom, as I shall have occasion to speak more particularly in another part of this undertaking, I will now content myself with saying, that, in my humble opinion, he merited, and certainly obtained with those best acquainted with his extensive learning and information, a considerable rank amongst the eminent persons who have adorned the age in which we have lived, and of whose services the public have been deprived by a premature death.

From these causes little progress had been made in our work, when I was deprived of my coadjutor. But from that time you can testify of me, that I have not been idle. You can bear witness to the confused state in which the materials, that compose the present volume, came into my hands. The difficulty

of reading many of the manuscripts, obscured by innumerable erasures, corrections, interlineations, and marginal insertions, would perhaps have been insuperable to any person less conversant in the manuscripts of Mr. Burke than myself. To this difficulty succeeded that of selecting from several detached papers, written upon the same subject and the same topics, such as appeared to contain the author's last thoughts and emendations.

When these difficulties were overcome, there still remained, in many instances, that of assigning its proper place to many detached members of the same piece, where no direct note of connexion had been made. These circumstances, whilst they will lead the reader not to expect, in the cases to which they apply, the finished productions of Mr. Burke, imposed upon me a task of great delicacy and difficulty, namely, that of deciding upon the publication of any and which of these unfinished pieces. I must here beg permission of you, and Lord Fitzwilliam, to inform the public, that in the execution of this part of my duty I requested and obtained your assistance.

Our first care was to ascertain from such evidence, internal and external, as the manuscripts themselves afforded, what pieces appeared to have been at any time intended by the author for publication. Our next was, to select such, as though not originally intended for publication, yet appeared to contain matter that might contribute to the gratification and instruction of the public. Our last object was to determine, what degree of imperfection and incorrectness in papers of either of these classes ought, or ought not, to exclude them from a place in the present volume. This was, doubtless, the most nice and arduous part of our undertaking. The difficulty, however, was, in our minds, greatly diminished by our conviction, that the reputation of our author stood far beyond the reach of injury from any injudicious conduct of ours in making this selection. On the other hand, we were desirous that nothing should be withheld, from which the public might derive any possible benefit.

Nothing more is now necessary, than that I should give a short account of the writings which compose the present volume.

I. Fourth letter on Regicide Peace.

Some account has already been given of this letter in the advertisement to the fourth quarto volume. That part of it which is contained between the first and the middle of the page 60, is taken from a manuscript which, nearly to the conclusion,

had received the author's last corrections: the subsequent part, to the middle of the page 63, is taken from some loose manuscripts, that were dictated by the author, but do not appear to have been revised by him; and though they, as well as what follows to the conclusion, were evidently designed to make a part of this letter, the editor alone is responsible for the order, in which they are here placed. The last part, from the middle of the page 63, had been printed as a part of the letter, which was originally intended to be the third on Regicide Peace, as in the preface to the fourth volume has already been noticed.

It was thought proper to communicate this letter, before its publication, to Lord Auckland, the author of the pamphlet so frequently alluded to in it. His lordship, in consequence of this communication, was pleased to put into my hands a letter, with which he had sent his pamphlet to Mr. Burke, at the time of its publication; and Mr. Burke's answer to that letter. These pieces, together with the note, with which his lordship transmitted them to me, are prefixed to the letter on Regicide Peace.

II. Letter to the Empress of Russia.

III. Letter to Sir Charles Bingham.

IV. Letter to the Honourable Charles James Fox.

Of these letters it will be sufficient to remark, that they come under the second of those classes, into which, as I before observed, we divided the papers, that presented themselves to our consideration.

V. Letter to the Marquis of Rockingham.

VI. An Address to the King.

VII. An Address to the British Colonists in North America.

These pieces relate to a most important period in the present reign; and I hope no apology will be necessary for giving them to the public.

VIII. Letter to the Right Honourable Edmund Perry.

IX. Letter to Thomas Burgh, Esq.

X. Letter to John Merlott, Esq.

The reader will find, in a note annexed to each of these letters, an account of the occasions on which they were written. The letter to T. Burgh, Esq. had found its way into some of the periodical prints of the time in Dublin.

XI. Reflections on the approaching Executions.

It may not, perhaps, now be generally known, that Mr. Burke was a marked object of the rioters in this disgraceful commotion; from whose fury he narrowly escaped. The reflections

will be found to contain maxims of the soundest judicial policy, and do equal honour to the head and heart of their illustrious writer.

XII. LETTER to the Right Honourable Henry Dundas; with the Sketch of a Negro Code.

Mr. Burke, in the letter to Mr. Dundas, has entered fully into his own views of the slave trade, and has thereby rendered any further explanation on that subject, at present, unnecessary. With respect to the code itself, an unsuccessful attempt was made to procure the copy of it transmitted to Mr. Dundas. It was not to be found amongst his papers. The editor has therefore been obliged to have recourse to a rough draught of it in Mr. Burke's own hand-writing; from which he hopes he has succeeded in making a pretty correct transcript of it, as well as in the attempt he has made to supply the marginal reference alluded to in Mr. Burke's letter to Mr. Dundas.

XIII. LETTER to the Chairman of the Buckinghamshire Meeting.

Of the occasion of this letter an account is given in the note subjoined to it.

XIV. TRACTS and Letters relative to the Laws against Popery in Ireland.

These pieces consist of,

1. An unfinished TRACT on the Popery Laws. Of this tract the reader will find an account in the note prefixed to it.
2. A LETTER to William Smith, Esq. Several copies of this letter having got abroad, it was printed and published in Dublin without the permission of Mr. Burke, or of the gentleman to whom it was addressed.
3. SECOND LETTER to Sir Hercules Langrishe. This may be considered as supplementary to the first letter, addressed to the same person in January 1792, which was published in the third volume.
4. LETTER to Richard Burke, Esq. Of this letter, it will be necessary to observe, that the first part of it appears to have been originally addressed by Mr. Burke to his son, in the manner in which it is now printed, but to have been left unfinished; after whose death he probably designed to have given the substance of it, with additional observations, to the public, in some other form; but never found leisure or inclination to finish it.

5. A LETTER on the Affairs of Ireland, written in the year 1797. The name of the person to whom this letter was addressed, does not appear on the manuscript; nor has the letter been found to which it was written as an answer. And as the gentleman, whom he employed as an amanuensis, is not now living, no discovery of it can be made; unless this publication of the letter should produce some information respecting it, that may enable us in a future volume to gratify, on this point, the curiosity of the reader. The letter was dictated, as he himself tells us, from his couch at Bath; to which place he had gone, by the advice of his physicians, in March, 1797. His health was now rapidly declining; the vigour of his mind remained unimpaired. This, my dear friend, was, I believe, the last letter dictated by him on public affairs:—here ended his political labours.

XV. FRAGMENTS and Notes of Speeches in Parliament.

1. SPEECH on the Acts of Uniformity.
2. SPEECH on a Bill for the relief of Protestant Dissenters.
3. SPEECH on the Petition of the Unitarians.
4. SPEECH on the Middlesex Election.
5. SPEECH on a Bill for shortening the duration of Parliaments.
6. SPEECH on the Reform of the Representation in Parliament.
7. SPEECH on a Bill for explaining the Powers of Juries in Prosecutions for Libels.

*7. LETTER relative to the same subject.

8. SPEECH on a Bill for repealing the Marriage Act.
9. SPEECH on a Bill to quiet the possessions of the Subject against dormant Claims of the Church.

With respect to these fragments, I have already stated the reasons, by which we were influenced in our determination to publish them. An account of the state, in which these manuscrips were found, is given in the note prefixed to this article.

XVI. HINTS for an Essay on the Drama.

This fragment was perused in manuscript by a learned and judicious critic, our late lamented friend Mr. Malone; and under the protection of his opinion, we can feel no hesitation in submitting it to the judgment of the public.

XVII. We are now come to the concluding article of this volume—The Essay on the History of England.

At what time of the author's life it was written cannot now be exactly ascertained; but it was certainly begun before he had attained the age of twenty-seven years: as it appears from an entry in the books of the late Mr. Dodsley, that eight sheets of it, which contain the first seventy-four pages* of the present edition, were printed in the year 1757. This is the only part that has received the finishing stroke of the author. In those who are acquainted with the manner in which Mr. Burke usually composed his graver literary works, and of which some account is given in the advertisement prefixed to the fourth volume, this circumstance will excite a deep regret; and whilst the public partakes with us in this feeling, it will doubtless be led to judge with candour and indulgence of a work left in this imperfect and unfinished state by its author.

Before I conclude, it may not be improper to take this opportunity of acquainting the public with the progress that has been made towards the completion of this undertaking. The sixth and seventh volumes, which will consist entirely of papers, that have a relation to the affairs of the East India Company, and to the impeachment of Mr. Hastings, are now in the press. The suspension of the consideration of the affairs of the East India Company in parliament, till its next session, has made me very desirous to get the sixth volume out as early as possible in the next winter. The ninth and eleventh reports of the select committee, appointed to take into consideration certain affairs of the East India Company in the year 1783, were written by Mr. Burke, and will be given in that volume. They contain a full and comprehensive view of the commerce, revenues, civil establishment, and general policy of the company; and will, therefore, be peculiarly interesting at this time to the public.

The eighth and last volume will contain a narrative of the life of Mr. Burke, which will be accompanied with such parts of his familiar correspondence, and other occasional productions, as shall be thought fit for publication. The materials relating to the early years of his life, alluded to in the advertisement to the fourth volume, have been lately recovered; and the communication of such as may still remain in the possession of any private individuals is again most earnestly requested.

Unequal as I feel myself to the task, I shall, my dear friend,

* This applies to the London edition in quarto, from which this is printed.
PUBLISHERS.

lose no time, nor spare any pains, in discharging the arduous duty, that has devolved upon me. You know the peculiar difficulties I labour under from the failure of my eyesight; and you may congratulate me upon the assistance, which I have now procured from my neighbour, the worthy Chaplain* of Bromley College, who, to the useful qualification of a most patient amanuensis, adds that of a good scholar and intelligent critic.

And now, adieu, my dear friend,
and believe me ever affectionately your's,
WR. ROFFEN.

Bromley House,
August 1, 1812.

Letter from the Right Honourable the Lord Auckland, to the Lord Bishop of Rochester.

EDEN FARM, KENT, July 18th, 1812.

MY DEAR LORD,

MR. BURKE'S fourth letter to Lord Fitzwilliam is personally interesting to me: I have perused it with a respectful attention.

When I communicated to Mr. Burke, in 1795, the printed work, which he arraigns and discusses, I was aware that he would differ from me.

Some light is thrown on the transaction by my note, which gave rise to it, and by his answer, which exhibits the admirable powers of his great and good mind, deeply suffering at the time under a domestic calamity.

I have selected these two papers from my manuscript collection, and now transmit them to your lordship, with a wish that they may be annexed to the publication in question.

I have the honour to be,
My dear Lord,
Your's, most sincerely,
AUCKLAND.

To the Right Rev.
The Lord Bishop of Rochester.

* The Rev. J. J. Tallman.

Letter from Lord Auckland to the Right Honourable Edmund Burke.

EDEN FARM, KENT, Oct. 28th, 1795.

MY DEAR SIR,

THOUGH in the stormy ocean of the last twenty-three years we have seldom sailed on the same tack, there has been nothing hostile in our signals or manœuvres; and on my part at least, there has been a cordial disposition towards friendly and respectful sentiments. Under that influence, I now send to you a small work, which exhibits my fair and full opinions on the arduous circumstances of the moment, "as far as the cautions "necessary to be observed will permit me to go beyond gene-"ral ideas."

Three or four of those friends with whom I am most connected in public and private life, are pleased to think, that the statement in question (which at first made part of a confidential paper) may do good: and accordingly a very large impression will be published to-day. I neither seek to avow the publication, nor do I wish to disavow it. I have no anxiety in that respect, but to contribute my mite to do service, at a moment when service is much wanted.

I am, my dear Sir,
most sincerely your's,
AUCKLAND.

Right Hon. Edmund Burke.

Letter from the Right Honourable Edmund Burke to Lord Auckland.

MY DEAR LORD,

I AM perfectly sensible of the very flattering honour you have done me, in turning any part of your attention towards a dejected old man, buried in the anticipated grave of a feeble old age, forgetting and forgotten, in an obscure and melancholy retreat.

In this retreat, I have nothing relative to this world to do, but to study all the tranquillity that, in the state of my mind, I am capable of. To that end, I find it but too necessary to call to my aid an oblivion of most of the circumstances, pleasant and unpleasant, of my life; to think as little, and indeed to know as little as I can, of every thing that is doing about

me; and above all, to divert my mind from all presagings and prognostications of what I must (if I let my speculations loose) consider as of absolute necessity to happen after my death, and possibly even before it. Your address to the public, which you have been so good as to send to me, obliges me to break in upon that plan, and to look a little on what is behind, and very much on what is before me. It creates in my mind a variety of thoughts, and all of them unpleasant.

It is true, my lord, what you say, that, through our public life, we have generally sailed on somewhat different tacks. We have so undoubtedly, and we should do so still, if I had continued longer to keep the sea. In that difference, you rightly observe, that I have always done justice to your skill and ability as a navigator, and to your good intentions towards the safety of the cargo and of the ship's company. I cannot say now that we are on different tacks. There would be no propriety in the metaphor. I can sail no longer. My vessel cannot be said to be even in port. She is wholly condemned and broken up. To have an idea of that vessel, you must call to mind what you have often seen on the Kentish road. Those planks of tough and hardy oak, that used for years to brave the buffets of the Bay of Biscay, are now turned, with their warped grain, and empty trunnion-holes, into very wretched pales for the enclosure of a wretched farm yard.

The style of your pamphlet, and the eloquence and power of composition you display in it, are such as do great honour to your talents; and in conveying any other sentiments would give me very great pleasure. Perhaps I do not very perfectly comprehend your purpose, and the drift of your arguments. If I do not, pray do not attribute my mistake to want of candour, but to want of sagacity. I confess your address to the public, together with other accompanying circumstances, has filled me with a degree of grief and dismay, which I cannot find words to express. If the plan of politics there recommended, (pray excuse my freedom) should be adopted by the king's councils, and by the good people of this kingdom, (as so recommended undoubtedly it will) nothing can be the consequence but utter and irretrievable ruin to the ministry, to the crown, to the succession, to the importance, to the independence, to the very existence of this country. This is my feeble, perhaps, but clear, positive, decided, long and maturely reflected, and frequently declared opinion, from which, all the events which have lately come to pass, so far from turning me, have tended to confirm beyond the power of alteration, even by your eloquence and authority. I find, my dear lord, that you think some persons,

who are not satisfied with the securities of a jacobin peace, to be persons of intemperate minds. I may be, and I fear I am with you in that description: but pray, my lord, recollect, that very few of the causes, which make men intemperate, can operate upon me. Sanguine hopes, vehement desires, inordinate ambition, implacable animosity, party attachments, or party interests; all these with me have no existence. For myself, or for a family, (alas! I have none,) I have nothing to hope or to fear in this world. I am attached by principle, inclination, and gratitude, to the king, and to the present ministry.

Perhaps you may think, that my animosity to opposition is the cause of my dissent, on seeing the politics of Mr. Fox, (which, while I was in the world, I combated by every instrument, which God had put into my hands, and in every situation, on which I had taken part) so completely, if I at all understand you, adopted in your lordship's book: but it was with pain I broke with that great man for ever in that cause; and I assure you, it is not without pain, that I differ with your lordship on the same principles. But it is of no concern. I am far below the region of those great and tempestuous passions. I feel nothing of the intemperance of mind. It is rather sorrow and dejection, than anger.

Once more my best thanks for your very polite attention, and do me the favour to believe me, with the most perfect sentiments of respect and regard,

My dear lord, your lordship's
most obedient and humble servant,
EDM. BURKE.

Beaconsfield, Oct. 30th, 1795.
Friday evening.

LETTER IV.

TO THE EARL FITZWILLIAM.

MY DEAR LORD,

I AM not sure, that the best way of discussing any subject, except those that concern the abstracted sciences, is not somewhat in the way of dialogue. To this mode, however, there are two objections; the first, that it happens, as in the puppet-show, one man speaks for all the personages. An unnatural uniformity of tone is in a manner unavoidable. The other, and more serious objection is, that as the author (if not an absolute sceptic) must have some opinion of his own to inforce, he will be continually tempted to enervate the arguments he puts into the mouth of his adversary, or to place them in a point of view most commodious for their refutation. There is, however, a sort of dialogue not quite so liable to these objections, because it approaches more nearly to truth and nature: it is called CONTROVERSY. Here the parties speak for themselves. If the writer, who attacks another's notions, does not deal fairly with his adversary, the diligent reader has it always in his power, by resorting to the work examined, to do justice to the original author and to himself. For this reason you will not blame me, if, in my discussion of the merits of a regicide peace, I do not choose to trust to my own statements, but to bring forward along with them the arguments of the advocates for that measure. If I choose puny adversaries, writers of no estimation or authority, then you will justly blame me. I might as well bring in at once a fictitious speaker, and thus fall into all the inconveniences of an imaginary dialogue. This I shall avoid; and I shall take no notice of any author, who my friends in town do not tell me, is in estimation with those whose opinions he supports.

A piece has been sent to me, called "Remarks on the apparent Circumstances of the War in the fourth week of October, 1795," with a French motto, *que faire encore une fois dans une telle nuit? Attendre le jour.* The very title seemed to me striking and peculiar, and to announce something uncommon. In the time I have lived to, I always seem to walk on enchanted ground. Every thing is new, and, according to the fashionable phrase, revolutionary. In former days authors

valued themselves upon the maturity and fulness of their deliberations. Accordingly they predicted (perhaps with more arrogance than reason) an eternal duration to their works. The quite contrary is our present fashion. Writers value themselves now on the instability of their opinions, and the transitory life of their productions. On this kind of credit the modern institutors open their schools. They write for youth, and it is sufficient if the instruction "lasts as long as a present love; or as "the painted silks and cottons of the season."

The doctrines in this work are applied, for their standard, with great exactness, to the shortest possible periods both of conception and duration. The title is, "Some Remarks on the "*apparent* circumstances of the War *in the fourth week of* "*October*, 1795." The time is critically chosen. A month or so earlier would have made it the anniversary of a bloody Parisian September, when the French massacre one another. A day or two later would have carried it into a London November, the gloomy month, in which it is said by a pleasant author, that Englishmen hang and drown themselves. In truth, this work has a tendency to alarm us with symptoms of public suicide. However, there is one comfort to be taken even from the gloomy time of year. It is a rotting season. If what is brought to market is not good, it is not likely to keep long. Even buildings run up in haste with untempered mortar in that humid weather, if they are ill-contrived tenements, do not threaten long to encumber the earth. The author tells us (and I believe he is the very first author that ever told such a thing to his readers) "that the *entire fabric* of his speculations might be "overset by unforeseen vicissitudes;" and what is far more extraordinary, "that even the *whole* consideration might be *varied* "*whilst he was writing those pages.*" Truly, in my poor judgment, this circumstance formed a very substantial motive for his not publishing those ill-considered considerations at all. He ought to have followed the good advice of his motto; Que faire encore dans une telle nuit? Attendre le jour. He ought to have waited till he had got a little more day-light on this subject. Night itself is hardly darker than the fogs of that time.

Finding the last week in October so particularly referred to, and not perceiving any particular event relative to the war, which happened on any of the days in that week, I thought it possible, that they were marked by some astrological superstition, to which the greatest politicians have been subject. I therefore had recourse to my Rider's Almanack. There I found indeed something that characterised the work, and that gave directions concering the sudden political and natural variations,

and for eschewing the maladies that are most prevalent in that aguish intermittent season, "the last week of October." On that week the sagacious astrologer, Rider, in his note on the third column of the calender side, teaches us to expect "*variable and cold weather;*" but instead of encouraging us to trust ourselves to the haze and mist and doubtful lights of that changeable week, on the answerable part of the opposite page, he gives us a salutary caution, (indeed it is very nearly in the words of the author's motto:) "*Avoid* (says he) *being out late at night, "and in foggy weather, for a cold now caught may last the whole "winter.*"* This ingenious author, who disdained the prudence of the almanack, walked out in the very fog he complains of, and has led us to a very unseasonable airing at that time. Whilst this noble writer, by the vigour of an excellent constitution, formed for the violent changes he prognosticates, may shake off the important rheum and malignant influenza, of this disagreeable week, a whole parliament may go on spitting and snivelling, and wheezing and coughing, during a whole session. All this from listening to variable, hebdomedal politicians, who run away from their opinions without giving us a month's warning: and for not listening to the wise and friendly admonitions of Dr. Cardanus Rider, who never apprehends he may change his opinions before his pen is out of his hand, but always enables us to lay in, at least a year's stock of useful information.

At first I took comfort. I said to myself, that if I should, as I fear I must, oppose the doctrines of *the last week of October*, it is probable that, by this time, they are no longer those of the eminent writer, to whom they are attributed. He gives us hopes, that long before this he may have embraced the direct contrary sentiments. If I am found in a conflict with those of the last week of October, I may be in full agreement with those of the last week in December, or the first week in January, 1796. But a second edition, and a French translation (for the benefit, I must suppose, of the new regicide directory) have let down a little of these flattering hopes. We and the directory know, that the author, whatever changes his works seemed made to indicate, like a weather-cock grown rusty, remains just where he was in the last week of last October. It is true, that his protest against binding him to his opinions, and his reservation of a right to whatever opinions he pleases, remain in their full

* Here I have fallen into an unintentional mistake. Rider's Almanack for 1794 lay before me; and, in truth, I then had no other. For variety, that sage astrologer has made some small changes on the weather side of 1795; but the caution is the same on the opposite page of instruction.

force. This variability is pleasant, and shows a fertility of fancy;

> Qualis in æthereo felix Vertumnus Olympo
> Mille habet ornatus, mille decenter habet.

Yet, doing all justice to the sportive variability of these weekly, daily, or hourly speculators, shall I be pardoned, if I attempt a word on the part of us simple country folk? It is not good for *us*, however it may be so for great statesmen, that we should be treated with variable politics. I consider different relations as prescribing a different conduct. I allow, that in transactions with an enemy, a minister may, and often must, vary his demands with the day, possibly with the hour. With an enemy, a fixed plan, variable arrangements. This is the rule the nature of the transaction prescribes. But all this belongs to treaty. All these shiftings and changes are a sort of secret amongst the parties, till a definite settlement is brought about. Such is the spirits of the proceedings in the doubtful and transitory state of things between enmity and friendship. In this change the subjects of the transformation are by nature carefully wrapt up in their coccoons. The gay ornament of summer is not seemly in his aurelia state. This mutability is allowed to a foreign negotiator; but when a great politician condescends publicly to instruct his own countrymen, on a matter which may fix their fate for ever, his opinions ought not to be diurnal, or even weekly. These ephemerides of politics are not made for our slow and coarse understandings. Our appetite demands a *piece of resistance*. We require some food that will stick to the ribs. We call for sentiments, to which we can attach ourselves; sentiments, in which we can take an interest; sentiments, on which we can warm, on which we can ground some confidence in ourselves or in others. We do not want a largess of inconstancy. Poor souls, we have enough of that sort of poverty at home. There is a difference too between deliberation and doctrine: a man ought to be decided in his opinions before he attempts to teach. His fugitive lights may serve himself in some unknown region, but they cannot free us from the effects of the error, into which we have been betrayed. His active Will-o'-the-Wisp may be gone, nobody can guess where, whilst he leaves us bemired and benighted in the bog.

Having premised these few reflections upon this new mode of teaching a lesson, which whilst the scholar is getting by heart the master forgets, I come to the lesson itself. On the fullest consideration of it, I am utterly incapable of saying with any

great certainty what it is in the detail, that the author means to affirm or deny, to dissuade or recommend. His march is mostly oblique, and his doctrine rather in the way of insinuation than of dogmatic assertion. It is not only fugitive in its duration, but is slippery, in the extreme, whilst it lasts. Examining it part by part, it seems almost every where to contradict itself; and the author, who claims the privilege of varying his opinions, has exercised this privilege in every section of his remarks. For this reason, amongst others, I follow the advice which the able writer gives in his last page, which is "to consider the *impression* of what he has urged, taken from the *whole*, and not from "detached paragraphs." That caution was not absolutely necessary. I should think it unfair to the author and to myself, to have proceeded otherwise. This author's *whole*, however, like every other whole, cannot be so well comprehended without some reference to the parts; but they shall be again referred to the whole. Without this latter attention, several of the passages would certainly remain covered with an impenetrable and truly oracular obscurity.

The great general pervading purpose of the whole pamphlet is to reconcile us to peace with the present usurpation in France. In this general drift of the author I can hardly be mistaken. The other purposes, less general, and subservient to the preceding scheme, are to show, first, that the time of the remarks was the favourable time for making that peace upon our side; secondly, that on the enemy's side their disposition towards the acceptance of such terms, as he is pleased to offer, was rationally to be expected; the third purpose was to make some sort of disclosure of the terms, which, if the regicides are pleased to grant them, this nation ought to be contented to accept: these form the basis of the negotiation, which the author, whoever he is, proposes to open.

Before I consider these Remarks along with the other reasonings, which I hear on the same subject, I beg leave to recal to your mind the observation I made early in our correspondence, and which ought to attend us quite through the discussion of this proposed peace, amity, or fraternity, or whatever you may call it; that is, the real quality and character of the party you have to deal with. This, I find, as a thing of no importance, has every where escaped the author of the October Remarks. That hostile power to the period of the fourth week in that month has been ever called and considered as an usurpation. In that week, for the first time, it changed its name of an usurped power, and took the simple name of *France*. The word France is slipped in just as if the government stood exactly as before that

revolution, which has astonished, terrified, and almost overpowered Europe. "France," says the author, "will do this;" "it is the interest of France;" "the returning honour and generosity of France;" &c. &c. always merely France; just as if we were in a common political war with an old recognized member of the commonwealth of christian Europe; and as if our dispute had turned upon a mere matter of territorial or commercial controversy, which a peace might settle by the imposition or the taking off a duty, with the gain, or the loss of a remote island or a frontier town or two, on the one side or the other. This shifting of persons could not be done without the hocus-pocus of *abstraction*. We have been in a grievous error: we thought that we had been at war with *rebels* against the lawful government, but that we were friends and allies of what is properly France; friends and allies to the legal body politic of France. But by slight of hand the Jacobins are clean vanished, and it is France we have got under our cup. Blessings on his soul that first invented sleep, said Don Sancho Pancha the wise! All those blessings, and ten thousand times more, on him who found out abstraction, personification, and impersonals. In certain cases they are the first of all soporifics. Terribly alarmed we should be if things were proposed to us in the *concrete;* and if fraternity was held out to us with the individuals, who compose this France, by their proper names and descriptions: if we were told that it was very proper to enter into the closest bonds of amity and good correspondence with the devout, pacific, and tender-hearted Syeyes, with the all-accomplished Rewbel, with the humane guillotinists of Bourdeaux, Tallien and Isabeau; with the meek butcher Legendre, and with "the returned humanity and generosity" (that had been only on a visit abroad) of the virtuous regicide brewer Santerre. This would seem at the outset a very strange scheme of amity and concord;—nay, though we had held out to us, as an additional douceur, an assurance of the cordial fraternal embrace of our pious and patriotic countryman Thomas Paine. But plain truth would here be shocking and absurd; therefore comes in *abstraction* and personification. "Make your peace with "France." That word *France* sounds quite as well as any other, and it conveys no idea, but that of a very pleasant country and very hospitable inhabitants. Nothing absurd and shocking in amity and good correspondence with *France*. Permit me to say, that I am not yet well acquainted with this new-coined France, and, without a careful assay, I am not willing to receive it in currency in place of the old Louis d'or.

Having therefore slipped the persons, with whom we are to treat, out of view, we are next to be satisfied, that the French revolution, which this peace is to fix and consolidate, ought to give us no just cause of apprehension. Though the author labours this point, yet he confesses a fact (indeed he could not conceal it) which renders all his labours utterly fruitless. He confesses, that the regicide means to *dictate* a pacification, and that this pacification, according to their decree passed but a very few days before his publication appeared, is to "unite to "their empire either in possession or dependence, new barriers, "many frontier places of strength, a large sea-coast, and many "sea-ports:" he ought to have stated it, that they would annex to their territory a country about a third as large as France, and much more than half as rich; and in a situation the most important for command, that it would be possible for her any where to possess.

To remove this terror (if the regicides should carry their point) and to give us perfect repose with regard to their empire, whatever they may acquire, or whomsoever they might destroy, he raises a doubt "whether France will not be ruined by *re-* "*taining* these conquests, and whether she will not wholly "lose that preponderance, which she has held in the scale of "European powers, and will not eventually be destroyed by "the effect of her present successes; or, at least, whether, so "far as the *political interests of England are concerned*, she "[France] will remain an object of *as much jealousy and alarm*, "*as she was under the reign of a monarch.*" Here, indeed, is a paragraph full of meaning! It gives matter for meditation almost in every word of it. The secret of the pacific politicians is out. This republic, at all hazards, is to be maintained. It is to be confined within some bounds, if we can; if not, with every possible acquisition of power, it is still to be cherished and supported. It is the return of the monarchy we are to dread, and therefore we ought to pray for the permanence of the regicide authority. *Esto perpetua* is the devout ejaculation of our Fra Paolo for the republic one and indivisible. It was the monarchy that rendered France dangerous;—regicide neutralizes all the acrimony of that power, and renders it safe and social. The October speculator is of opinion, that monarchy is of so poisonous a quality, that a moderate territorial power is far more dangerous to its neighbours under that abominable regimen, than the greatest empire in the hands of a republic. This is jacobinism sublimed and exalted into most pure and perfect essence. It is a doctrine, I admit, made to allure and captivate, if any thing in the world can, the jacobin

directory, to mollify the ferocity of regicide, and to persuade those patriotic hangmen, after their reiterated oaths for our extirpation, to admit this well humbled nation to the fraternal embrace. I do not wonder that this tub of October has been racked off into a French cask. It must make its fortune at Paris. That translation seems the language the most suited to these sentiments. Our author tells the French jacobins that the political interests of Great Britain are in perfect unison with the principles of their government; that they may take and keep the keys of the civilized world, for they are safe in their unambitious and faithful custody. We say to them—We may, indeed, wish you to be a little less murderous, wicked, and atheistical, for the sake of morals: We may think it were better you were less new-fangled in your speech, for the sake of grammar; but, as *politicians*, provided you keep clear of monarchy, all our fears, alarms, and jealousies are at an end: at least they sink into nothing in comparison of our dread of your detestable royalty. A flatterer of Cardinal Mazarin said, when that minister had just settled the match between the young Louis XIV. and a daughter of Spain, that this alliance had the effect of faith, and had removed mountains—that the Pyrenees were levelled by that marriage. You may now compliment Rewbel in the same spirit on the miracles of regicide, and tell him, that the guillotine of Louis XVI. had consummated a marriage between Great Britain and France, which dried up the channel, and restored the two countries to the unity which, it is said, they had, before the unnatural rage of seas and earthquakes had broke off their happy junction. It will be a fine subject for the poets, who are to prophecy the blessings of this peace.

I am now convinced, that the remarks of the last week of October cannot come from the author, to whom they are given; they are such a direct contradiction to the style of manly indignation, with which he spoke of those miscreants and murderers in his excellent memorial to the states of Holland; to that very state, which the author, who presumes to personate him, does not find it contrary to the political interests of England to leave in the hands of these very miscreants, against whom on the part of England he took so much pains to animate their republic. This cannot be, and, if this argument wanted any thing to give it new force, it is strengthened by an additional reason that is irresistible. Knowing that noble person, as well as myself, to be under very great obligations to the crown, I am confident he would not so very directly contradict, even in the paroxysm of zeal against monarchy, the declarations

made in the name and with the fullest approbation of our sovereign, his master, and our common benefactor. In those declarations you will see, that the king, instead of being sensible of greater alarm and jealousy from a neighbouring crowned head, than from these regicides, attributes all the dangers of Europe to the latter. Let this writer hear the description given in the royal declaration of the scheme of power of these miscreants, as "*a system destructive of all public order; maintained* "*by proscriptions, exiles, and confiscations without number;* "*by arbitrary imprisonments; by massacres which cannot* "*be remembered without horror; and at length by the execra-* "*ble murder of a just and beneficent sovereign, and of the* "*illustrious princess, who with an unshaken firmness has* "*shared all the misfortunes of her royal consort, his pro-* "*tracted sufferings, his cruel captivity, and his ignomini-* "*ous death.*" After thus describing, with an eloquence and energy equalled only by its truth, the means by which this usurped power had been acquired and maintained, that government is characterized with equal force. His majesty, far from thinking monarchy in France to be a greater object of jealousy, than the regicide usurpation, calls upon the French to re-establish "*a monarchical government*" for the purpose of shaking off "*the yoke of a sanguinary anarchy; of that anarchy* "*which has broken the most sacred bonds of society, dis-* "*solved all the relations of civil life, violated every right,* "*confounded every duty; which uses the name of liberty to* "*exercise the most cruel tyranny, to annihilate all property,* "*to seize on all possessions; which founds its power on the* "*pretended consent of the people, and itself carries fire and* "*sword through extensive provinces for having demanded* "*their laws, their religion, and their rightful sovereign.*"

"That strain I heard was of an higher mood." That declaration of our sovereign was worthy of his throne. It is in a style, which neither the pen of the writer of October, nor such a poor crow-quill as mine can ever hope to equal. I am happy to enrich my letter with this fragment of nervous and manly eloquence, which, if it had not emanated from the awful authority of a throne, if it were not recorded among the most valuable monuments of history, and consecrated in the archives of states, would be worthy as a private composition to live for ever in the memory of men.

In those admirable pieces, does his majesty discover this new opinion of his political security in having the chair of the scorner, that is, the discipline of atheism and the block of regicide set up by his side, elevated on the same platform, and shouldering,

with the vile image of their grim and bloody idol, the inviolable majesty of his throne? The sentiments of these declarations are the very reverse: they could not be other. Speaking of the spirit of that usurpation the royal manifesto describes with perfect truth its internal tyranny to have been established as the very means of shaking the security of all other states; as "*disposing arbitrarily of the property and blood of* "*the inhabitants of France, in order to disturb the tranquillity* "*of other nations, and to render all Europe the theatre of the* "*same crimes and the same misfortunes.*" It was but a natural inference from this fact, that the royal manifesto does not at all rest the justification of this war on common principles:—"*that* "*it was not only to defend his own rights, and those of his* "*allies,*"—but "*that all the dearest interests of his people im-* "*posed upon him a duty still more important; that of exerting* "*his efforts for the preservation of civil society itself, as hap-* "*pily established among the nations of Europe.*" On that ground the protection offered is to those, who, by "declaring for "a *monarchial government*, shall shake off the yoke of a san- "guinary anarchy."—It is for that purpose the declaration calls on them to join the standard of an "*hereditary monar-* "*chy;*" and declaring, that the *safety and peace* of this king- dom and the powers of Europe "*materially depend upon the* "*re-establishment of order in France,*" his majesty does not hesitate to declare, that "*the re-establishment of monarchy in* "*the person of Louis the* 17*th and the lawful heirs of his crown* "*appears to him* [his majesty] *the best mode of accomplishing* "*these just and salutary views.*"

This is what his majesty does not hesitate to declare relative to the political safety and peace of his kingdom and of Europe, and with regard to France under her ancient hereditary monarchy in the course and order of legal succession;—but in comes a gentleman in the fag end of October, dripping with the fogs of that humid and uncertain season, and does not hesitate in diameter to contradict this wise and just royal declaration; and stoutly, on his part, to make a counter-declaration, that France, so far as the political interests of England are concerned, will not remain, under the despotism of regicide and with the better part of Europe in her hands, so much an object of jealousy and alarm, as she was under the reign of a monarch. When I hear the master and reason on one side, and the servant and his single and unsupported assertion on the other, my part is taken.

This is what the Octobrist says of the political interests of England, which it looks as if he completely disconnected with

those of all other nations. But not quite so; he just allows it possible (with an "at least") that the other powers may not find it quite their interest, that their territories should be conquered, and their subjects tyrannized over by the regicides. No fewer than ten sovereign princes had, some the whole, all a very considerable part of their dominions under the yoke of that dreadful faction. Amongst these was to be reckoned the first republic in the world, and the closest ally of this kingdom, which, under the insulting name of an independency, is under her iron yoke; and, as long as a faction averse to the old government is suffered there to domineer, cannot be otherwise. I say nothing of the Austrian Netherlands, countries of a vast extent, and amongst the most fertile and populous of Europe; and with regard to us most critically situated. The rest will readily occur to you.

But if there are yet existing any people, like me, old fashioned enough to consider, that we have an important part of our very existence beyond our limits, and who therefore stretch their thoughts beyond the pomœrium of England, for them too he has a comfort, which will remove all their jealousies and alarms about the extent of the empire of regicide. . "*These "conquests eventually will be the cause of her destruction.*" So that they, who hate the cause of usurpation, and dread the power of France under any form, are to wish her to be a conqueror, in order to accelerate her ruin. A little more conquest would be still better.—Will he tell us what dose of dominion is to be the *quantum sufficit* for her destruction, for she seems very voracious of the food of her distemper? To be sure she is ready to perish with repletion; she has a *Boulimia*, and hardly has bolted down one state, than she calls for two or three more. There is a good deal of wit in all this; but it seems to me (with all respect to the author) to be carrying the joke a great deal too far. I cannot yet think, that the armies of the allies were of this way of thinking; and that, when they evacuated all these countries, it was a stratagem of war to decoy France into ruin; or that, if in a treaty we should surrender them for ever into the hands of the usurpation (the case the author supposes) it is a master-stroke of policy to effect the destruction of a formidable rival, and to render her no longer an object of jealousy and alarm. This, I assure the author, will infinitely facilitate the treaty. The usurpers will catch at this bait, without minding the hook, which this crafty angler for the jacobin gudgeons of the new directory has so dexterously placed under it.

Every symptom of the exacerbation of the public malady is with him (as with the doctor in Moliere) a happy prognostic of recovery. Flanders gone. *Tant Mieux*. Holland subdued—charming! Spain beaten, and all the hither Germany conquered. Bravo! Better and better still! But they will retain all their conquests on a treaty! Best of all! What a delightful thing it is to have a gay physician who sees all things, as the French express it, *couleur de rose*! What an escape we have had, that we and our allies were not the conquerors! By these conquests, previous to her utter destruction, she is "wholly to lose that "preponderance, which she held in the scale of the European "powers." Bless me! this new system of France, after changing all other laws, reverses the law of gravitation. By throwing in weight after weight her scale rises; and will, by and by, kick the beam. Certainly there is one sense in which she loses her preponderance: that is, she is no longer preponderant against the countries she has conquered. They are part of herself. But I beg the author to keep his eyes fixed on the scales for a moment longer, and then to tell me in downright earnest, whether he sees hitherto any signs of her losing preponderance by an augmentation of weight and power. Has she lost her preponderance over Spain, by her influence in Spain? Are there any signs, that the conquest of Savoy and Nice begin to lessen her preponderance over Switzerland and the Italian states; or, that the canton of Berne, Genoa, and Tuscany, for example, have taken arms against her, or, that Sardinia is more adverse than ever to a treacherous pacification? Was it in the last week of October, that the German states showed that jacobin France was losing her preponderance? Did the king of Prussia, when he delivered into her safe custody his territories on this side of the Rhine, manifest any tokens of his opinion of her loss of preponderance? Look on Sweden and on Denmark: is her preponderance less visible there?

It is true, that in a course of ages empires have fallen, and, in the opinion of some, not in mine, by their own weight. Sometimes they have been unquestionably embarrassed in their movements by the dissociated situation of their dominions. such was the case of the empire of Charles V. and of his successor. It might be so of others. But so compact a body of empire—so fitted in all the parts for mutual support;—with a frontier by nature and art so impenetrable;—with such facility of breaking out with irresistible force, from every quarter, was never seen in such an extent of territory from the beginning of time, as in that empire, which the jacobins possessed in October, 1795, and which Boissy d'Anglois, in his report, settled as the

law for Europe, and the dominion assigned by nature for the republic of regicide. But this empire is to be her ruin, and to take away all alarm and jealousy on the part of England, and to destroy her preponderance over the miserable remains of Europe.

These are choice speculations, with which the author amuses himself, and tries to divert us, in the blackest hours of the dismay, defeat, and calamity of all civilized nations. They have but one fault, that they are directly contrary to the common sense and common feeling of mankind. If I had but one hour to live, I would employ it in decrying this wretched system, and die with my pen in my hand to mark out the dreadful consequences of receiving an arrangement of empire dictated by the despotism of regicide to my own country, and to the lawful sovereigns of the christian world.

I trust I shall hardly be told in palliation of this shameful system of politics, that the author expresses his sentiments only as doubts. In such things it may be truly said, that "once to "doubt is once to be resolved." It would be a strange reason for wasting the treasures and shedding the blood of our country to prevent arrangements on the part of another power, of which we were doubtful, whether they might not be even to our advantage, and render our neighbour less, than before, the object of our jealousy and alarm. In this doubt there is much decision. No nation would consent to carry on a war of scepticism. But the fact is, this expression of doubt is only a mode of putting an opinion, when it is not the drift of the author to overturn the doubt. Otherwise, the doubt is never stated as the author's own, nor left, as here it is, unanswered. Indeed, the mode of stating the most decided opinions in the form of questions is so little uncommon, particularly since the excellent queries of the excellent Berkely, that it became for a good while a fashionable mode of composition.

Here then the author of the fourth week of October is ready for the worst, and would strike the bargain of peace on these conditions. I must leave it to you and to every considerate man to reflect upon the effect of this on any continental alliances present or future, and whether it would be possible (if this book was thought of the least authority) that its maxims with regard to our political interest must not naturally push them to be beforehand with us in the fraternity with regicide, and thus not only strip us of any steady alliance at present, but leave us without any of that communion of interest, which could produce alliances in future. Indeed, with these maxims we should be well divided from the world.

Notwithstanding this new kind of barrier and security that is found against her ambition in her conquests, yet in the very same paragraph he admits that for the *present*, at least, it is "subversive of the balance of power." This, I confess, is not a direct contradiction, because the benefits which he promises himself from it, according to his hypothesis, are future and more remote.

So disposed is this author to peace, that having laid a comfortable foundation of our security in the greatness of her empire, he has another in reserve if that should fail, upon quite a contrary ground;—that is, a speculation of her crumbling to pieces, and being thrown into a number of little separate republics. After paying the tribute of humanity to those who will be ruined by all these changes, on the whole, he is of opinion, that "the change might be compatible with general tranquillity, and with the establishment of a peaceful and prosperous commerce among nations." Whether France be great or small, firm and entire, or dissipated and divided, all is well; provided we can have peace with her.

But, without entering into speculations about her dismemberment whilst she is adding great nations to her empire, is it then quite so certain, that the dissipation of France into such a cluster of petty Republics would be so very favourable to the true balance of power in Europe, as this author imagines it would be, and to the commerce of nations? I greatly differ from him. I perhaps shall prove in a future letter, with the political map of Europe before my eye, that the general liberty and independence of the great christian commonwealth could not exist with such a dismemberment; unless it were followed (as probably enough it would) by the dismemberment of every other considerable country in Europe: and, what convulsions would arise in the constitution of every state in Europe, it is not easy to conjecture in the mode, impossible not to forsee in the mass. Speculate on, good my Lord! provided you ground no part of your politics on such unsteady speculations. But, as to any practice to ensue, are we not yet cured of the malady of speculating on the circumstances of things totally different from those in which we live and move? Five years has this monster continued whole and entire in all its members. Far from falling into a division within itself, it is augmented by tremendous additions. We cannot bear to look that frightful form in the face as it is, and in its own actual shape. We dare not be wise. We have not the fortitude of rational fear; we will not provide for our future safety; but we endeavour to hush the cries of present timidity by guesses at what may be hereafter, "To-morrow and

"to-morrow and to-morrow"—Is this our style of talk, when "all our yesterdays have lighted fools the way to dusty death?" Talk not to me of what swarm of republics may come from this carcass! It is no carcass. Now, now, whilst we are talking, it is full of life and action. What say you to the regicide empire of to-day? Tell me, my friend, do its terrors appal you into an abject submission, or rouse you to a vigorous defence? But do—I no longer prevent it—do go on—look into futurity. Has this empire nothing to alarm you when all struggle against it is over, when mankind shall be silent before it, when all nations shall be disarmed, disheartened and *truly divided* by a treacherous peace? Its malignity towards humankind will subsist with undiminished heat, whilst the means of giving it effect must proceed, and every means of resisting it must inevitably and rapidly decline.

Against alarm on their politic and military empire these are the writer's sedative remedies. But he leaves us sadly in the dark with regard to the moral consequences which he states have threatened to demolish a system of civilization under which *his* country enjoys a prosperity unparalleled in the history of man:—We had emerged from our first terrors, but here we sink into them again; however, only to shake them off upon the credit of his being a man of very sanguine hopes.

Against the moral terrors of this successful empire of barbarism, though he has given us no consolation here, in another place he has formed other securities; securities, indeed, which will make even the enormity of the crimes and atrocities of France a benefit to the world. We are to be cured by her diseases. We are to grow proud of our constitution upon the distempers of theirs. Governments throughout all Europe are to become much stronger by this event. This too comes in the favourite mode of *doubt*, and *perhaps*. "To those," he says, "who medi-"tate on the workings of the human mind, a doubt may, perhaps, "arise, whether the effects, which I have described [namely, the change he supposes to be wrought on the public mind with regard to the French doctrines] "though *at present* a salutary "check to the dangerous spirit of innovation, may not prove "favourable to abuses of power, by creating a timidity in the "just cause of liberty." Here the current of our apprehensions takes a contrary course. Instead of trembling for the existence of our government from the spirit of licentiousness and anarchy, the author would make us believe we are to tremble for our liberties from the great accession of power, which is to accrue to government.

I believe I have read in some author who criticised the pro-

ductions of the famous Jurieu, that it is not very wise in people, who dash away in prophecy, to fix the time of accomplishment at too short a period. Mr. Brothers may meditate upon this at his leisure. He was a melancholy prognosticator, and has had the fate of melancholy men. But they. who prophecy pleasant things, get great present applause; and in days of calamity people have something else to think of: they lose in their feeling of their distress, all memory of those, who flattered them in their prosperity. But, merely for the credit of the prediction, nothing could have happened more unluckily for the noble lord's sanguine expectations of the amendment of the public mind, and the consequent greater security to government from the examples in France, than what happened in the week after the publication of his hebdomadal system. I am not sure it was not in the very week, one of the most violent and dangerous seditions broke out, that we have seen in several years. This sedition, menacing to the public security, endangering the sacred person of the king, and violating in the most audacious manner the authority of parliament, surrounded our sovereign with a murderous yell and war-whoop for that peace which the noble lord considers as a cure for all domestic disturbances and dissatisfactions.

So far as to this general cure for popular disorders. As for government, the two houses of parliament, instead of being guided by the speculations of the fourth week in October, and throwing up new barriers against the dangerous power of the crown, which the noble lord considered as no unplausible subject of apprehension, the two houses of parliament thought fit to pass two acts for the further strengthening of that very government against a most dangerous and wide-spread faction.

Unluckily too for this kind of sanguine speculation, on the very first day of the ever-famed "last week of October," a large, daring and seditious meeting was publicly held, from which meeting this atrocious attempt against the sovereign publicly originated.

No wonder, that the author should tell us that the whole consideration might be varied *whilst he was writing those pages.* In one, and that the most material, instance, his speculations not only might be, but were at that very time, entirely overset. Their war cry for peace with France was the same with that of this gentle author, but in a different note. His is the *gemitus Columbæ*, cooing and wooing fraternity: theirs the funereal screams of birds of night calling for their ill-omened paramours. But they are both songs of courtship. These regicides considered a regicide peace as a cure for all their evils; and, so

far as I can find, they showed nothing at all of the timidity which the noble lord apprehends in what they call the just cause of liberty.

However, it seems, that notwithstanding these awkward appearances with regard to the strength of government, he has still his fears and doubts about our liberties. To a free people this would be a matter of alarm, but this physician of October has in his shop all sorts of salves for all sorts of sores. It is curious, that they all come from the inexhaustible drug shop of the regicide dispensary. It costs him nothing to excite terror, because he lays it at his pleasure. He finds a security for this danger to liberty from the wonderful wisdom to be taught to kings, to nobility, and even to the lowest of the people, by the late transactions.

I confess, I was always blind enough to regard the French revolution, in the act and much more in the example, as one of the greatest calamities that had ever fallen upon mankind. I now find that in its effects it is to be the greatest of all blessings. If so, we owe *amende honorable* to the jacobins. They, it seems, were right—and if they were right a little earlier than we are, it only shows that they exceeded us in sagacity. If they brought out their right ideas somewhat in a disorderly manner, it must be remembered that great zeal produces some irregularity; but, when greatly in the right, it must be pardoned by those, who are very regularly and temperately in the wrong. The master jacobins had told me this a thousand times. I never believed the masters; nor do I now find myself disposed to give credit to the disciple. I will not much dispute with our author, which party has the best of this revolution;—that, which is from thence to learn wisdom, or that, which from the same event has obtained power. The dispute on the preference of strength to wisdom may perhaps be decided as Horace has decided the controversy between art and nature. I do not like to leave all the power to my adversary, and to secure nothing to myself but the untimely wisdom, that is taught by the consequences of folly. I do not like my share in the partition, because to his strength my adversary may possibly add a good deal of cunning, whereas my wisdom may totally fail in producing to me the same degree of strength. But to descend from the author's generalities a little nearer to meaning, the security given to liberty is this, "that governments will have "learned not to precipitate themselves into embarrassments by "speculative wars. Sovereigns and princes will not forget that "steadiness, moderation and economy are the best supports of "the eminence on which they stand." There seems to me a

good deal of oblique reflection in this lesson. As to the lesson itself, it is at all times a good one. One would think, however, by this formal introduction of it, as a recommendation of the arrangements proposed by the author, it had never been taught before, either by precept or by experience; and that these maxims are discoveries reserved for a regicide peace. But is it permitted to ask, what security it affords to the liberty of the subject, that the prince is pacific or frugal? The very contrary has happened in our history. Our best securities for freedom have been obtained from princes, who were either warlike, or prodigal, or both.

Although the amendment of princes, in these points, can have no effect in quieting our apprehensions for liberty on account of the strength to be acquired to government by a regicide peace, I allow, that the avoiding of speculative wars may possibly be an advantage; provided I well understand, what the author means by a speculative war. I suppose he means a war grounded on speculative advantages, and not wars founded on a just speculation of danger. Does he mean to include this war, which we are now carrying on, amongst those speculative wars, which this jacobin peace is to teach sovereigns to avoid hereafter? If so, it is doing the party an important service. Does he mean that we are to avoid such wars as that of the grand alliance, made on a speculation of danger to the independence of Europe? I suspect he has a sort of retrospective view to the American war, as a speculative war, carried on by England upon one side, and by Lewis the XVIth on the other. As to our share of that war, let reverence to the dead, and respect to the living, prevent us from reading lessons of this kind at their expense. I don't know how far the author may find himself at liberty to wanton on that subject, but, for my part, I entered into a coalition, which, when I had no longer a duty relative to that business, made me think myself bound in honour not to call it up without necessity. But if he puts England out of the question, and reflects only on Louis XVI. I have only to say, "Dearly has he answered it." I will not defend him. But all those, who pushed on the revolution, by which he was deposed, were much more in fault than he was. They have murdered him, and have divided his kingdom as a spoil; but they, who are the guilty, are not they, who furnish the example. They, who reign through his fault, are not among those sovereigns, who are likely to be taught to avoid speculative wars by the murder of their master. I think the author will not be hardy enough to assert, that they have shown less disposition to meddle in the concerns of that very America, than he did,

and in a way not less likely to kindle the flame of speculative war. Here is one sovereign not yet reclaimed by these healing examples. Will he point out the other sovereigns, who are to be reformed by this peace? Their wars may not be speculative. But the world will not be much mended by turning wars from unprofitable and speculative to practical and lucrative, whether the liberty or the repose of mankind is regarded. If the author's new sovereign in France is not reformed by the example of his own revolution, that revolution has not added much to the security and repose of Poland, for instance, or taught the three great partitioning powers more moderation in their second, than they had shown in their first division, of that devoted country. The first division which preceded these destructive examples, was moderation itself in comparison of what has been done since the period of the author's amendment.

This paragraph was written with something of a studied obscurity. If it means any thing, it seems to hint as if sovereigns were to learn moderation and an attention to the liberties of their people, from *the fate of the sovereigns who have suffered in this war*, and eminently of Louis XVI.

Will he say, whether the king of Sardinia's horrible tyranny was the cause of the loss of Savoy and of Nice? What lesson of moderation does it teach the pope? I desire to know, whether his holiness is to learn not to massacre his subjects, not to waste and destroy such beautiful countries, as that of Avignon, lest he should call to their assistance that great deliverer of nations, *Jourdan Coupête?* What lesson does it give of moderation to the emperor, whose predecessor never put one man to death after a general rebellion of the Low Countries, that the regicides never spared man, woman, or child, whom they but suspected of dislike to their usurpations? What, then, are all these lessons about the *softening* the character of sovereigns by this regicide peace? On reading this section one would imagine, that the poor tame sovereigns of Europe had been a sort of furious wild beasts, that stood in need of some uncommonly rough discipline to subdue the ferocity of their savage nature.

As to the example to be learnt from the murder of Louis XVI. if a lesson to kings is not derived from his fate, I do not know whence it can come. The author, however, ought not to have left us in the dark upon that subject, to break our shins over his hints and insinuations. Is it, then, true, that this unfortunate monarch drew his punishment upon himself by his want of moderation, and his oppressing the liberties, of which he had found his people in possession? Is not the direct con-

trary the fact? And is not the example of this revolution the very reverse of any thing, which can lead to that *softening* of character in princes, which the author supposes as a security to the people; and has brought forward as a recommendation to fraternity with those, who have administered that happy emollient in the murder of their king, and the slavery and desolation of their country?

But the author does not confine the benefit of the regicide lesson to kings alone. He has a diffusive bounty. Nobles, and men of property will likewise be greatly reformed. They too will be led to a review of their social situation and duties, "and will reflect, that their large allotment of worldly advanta-"ges is for the aid and benefit of the whole." Is it then from the fate of Juignie, archbishop of Paris, or of the cardinal de Rochefoucault, and of so many others, who gave their fortunes, and, I may say, their very beings to the poor, that the rich are to learn, that their "fortunes are for the aid and benefit of the "whole?" I say nothing of the liberal persons of great rank and property, lay and ecclesiastic, men and women, to whom we have had the honour and happiness of affording an asylum—I pass by these, lest I should never have done, or lest I should omit some as deserving as any I might mention. Why will the author then suppose, that the nobles and men of property in France have been banished, confiscated, and murdered, on account of the savageness and ferocity of their character, and their being tainted with vices beyond those of the same order and description in other countries? No judge of a revolutionary tribunal, with his hands dipped in their blood, and his maw gorged with their property, has yet dared to assert what this author has been pleased, by way of a moral lesson, to insinuate.

Their nobility and their men of property, in a mass, had the very same virtues and the very same vices, and in the very same proportions, with the same description of men in this and in other nations. I must do justice to suffering honour, generosity, and integrity. I do not know, that any time or any country has furnished more splendid examples of every virtue, domestic and public. I do not enter into the councils of providence: but humanly speaking, many of these nobles and men of property, from whose disastrous fate we are, it seems, to learn a general softening of character, and a revision of our social situations and duties, appear to me full as little deserving of that fate, as the author, whoever he is, can be. Many of them, I am sure, were such, as I should be proud indeed to be able to compare myself with, in knowledge, in integrity, and in every other virtue. My feeble nature might shrink, though theirs did not, from the

proof; but my reason and my ambition tell me, that it would be a good bargain to purchase their merits with their fate.

For which of his vices did that great magistrate, D'Espremenil, lose his fortune and his head? What were the abominations of Malesherbes, that other excellent magistrate, whose sixty years of uniform virtue was acknowledged, in the very act of his murder, by the judicial butchers who condemned him? On account of what misdemeanours was he robbed of his property, and slaughtered with two generations of his offspring; and the remains of the third race, with a refinement of cruelty, and lest they should appear to reclaim the property forfeited by the virtues of their ancestor, confounded in an hospital with the thousands of those unhappy foundling infants, who are abandoned, without relation and without name, by the wretchedness or by the profligacy of their parents?

Is the fate of the queen of France to produce this softening of character? Was she a person so very ferocious and cruel as, by the example of her death, to frighten us into common humanity? Is there no way to teach the emperor a *softening* of character and a review of his social situation and duty, but his consent, by an infamous accord with regicide, to drive a second coach with the Austrian arms through the streets of Paris, along which, after a series of preparatory horrors, exceeding the atrocities of the bloody execution itself, the glory of the imperial race had been carried to an ignominious death? Is this a lesson of *moderation* to a descendent of Maria Theresa, drawn from the fate of the daughter of that incomparable woman and sovereign? If he learns this lesson from such an object, and from such teachers, the man may remain, but the king is deposed. If he does not carry quite another memory of that transaction in the inmost recesses of his heart, he is unworthy to reign; he is unworthy to live. In the chronicle of disgrace he will have but this short tale told of him, "he was the first emperor, of his "house, that embraced a regicide: He was the last, that wore "the imperial purple."—Far am I from thinking so ill of this august sovereign, who is at the head of the monarchies of Europe, and who is the trustee of their dignities and his own.

What ferocity of character drew on the fate of Elizabeth, the sister of King Lewis XVI.? For which of the vices of that pattern of benevolence, of piety, and of all the virtues, did they put her to death? For which of her vices did they put to death, the mildest of all human creatures, the duchess of Biron? What were the crimes of those crowds of matrons and virgins of condition, whom they massacred, with their juries of blood, in prisons and on scaffolds? What were the enormities of the infant

king, whom they caused by lingering tortures to perish in their dungeon, and, whom if at last they despatched by poison, it was in that detestable crime the only act of mercy they have ever shown.

What softening of character is to be had, what review of their social situations and duties is to be taught by these examples, to kings, to nobles, to men of property, to women, and to infants? The royal family perished, because it was royal. The nobles perished, because they were noble. The men, women, and children, who had property, because they had property to be robbed of. The priests were punished, after they had been robbed of their all, not for their vices, but for their virtues and their piety, which made them an honour to their sacred profession, and to that nature, of which we ought to be proud, since they belong to it. My lord, nothing can be learned from such examples, except the danger of being kings, queens, nobles, priests, and children to be butchered on account of their inheritance. These are things, at which not vice, not crime, not folly, but wisdom, goodness, learning, justice, probity, beneficence stand aghast. By these examples our reason and our moral sense are not enlightened, but confounded; and there is no refuge for astonished and affrighted virtue, but being annihilated in humility and submission, sinking into a silent adoration of the inscrutable dispensations of providence, and flying with trembling wings from this world of daring crimes, and feeble, pusillanimous, half-bred, bastard justice, to the asylum of another order of things, in an unknown form, but in a better life.

Whatever the politician or preacher of September or of October may think of the matter, it is a most comfortless, disheartening, desolating example. Dreadful is the example of ruined innocence and virtue, and the completest triumph of the completest villany, that ever vexed and disgraced mankind! The example is ruinous in every point of view, religious, moral, civil, political. It establishes that dreadful maxim of Machiavel, that in great affairs men are not to be wicked by halves. This maxim is not made for a middle sort of beings, who, because they cannot be angels, ought to thwart their ambition, and not endeavour to become infernal spirits. It is too well exemplified in the present time, where the faults and errors of humanity, checked by the imperfect timorous virtues, have been overpowered by those, who have stopped at no crime. It is a dreadful part of the example, that infernal malevolence has had pious apologists, who read their lectures on frailties in favour of crimes; who abandon the weak, and court the friendship

of the wicked. To root out these maxims, and the examples that support them, is a wise object of years of war. This is that war. This is that moral war. It was said by old Trivulzio, that the battle of Marignan was the battle of the giants, that all the rest of the many he had seen were those of the cranes and pygmies. This is true of the objects, at least, of the contest. For the greater part of those, which we have hitherto contended for, in comparison, were the toys of children.

The October politician is so full of charity and good nature, that he supposes, that these very robbers and murderers themselves are in a course of amelioration; on what ground I cannot conceive, except on the long practice of every crime, and by its complete success. He is an Origenist, and believes in the conversion of the devil. All that runs in the place of blood in his veins, is nothing but the milk of human kindness. He is as soft as a curd, though, as a politician, he might be supposed to be made of sterner stuff. He supposes (to use his own expression) "that the salutary truths which he inculcates, are "making their way into their bosoms." Their bosom is a rock of granite, on which falsehood has long since built her strong hold. Poor truth has had a hard work of it with her little pick-ax. Nothing but gunpowder will do.

As a proof, however, of the progress of this sap of truth, he gives us a confession they had made not long before he wrote. "Their fraternity" (as was lately stated by themselves in a solemn report) "has been the brotherhood of Cain and Abel, "and they have organized nothing but bankruptcy and famine." A very honest confession truly; and much in the spirit of their oracle, Rousseau. Yet, what is still more marvellous than the confession, this is the very fraternity to which our author gives us such an obliging invitation to accede. There is, indeed, a vacancy in the fraternal corps; a brother and a partner is wanted. If we please, we may fill up the place of the butchered Abel; and whilst we wait the destiny of the departed brother, we may enjoy the advantages of the partnership, by entering without delay into a shop of ready-made bankruptcy and famine. These are the *douceurs*, by which we are invited to regicide fraternity and friendship. But still our author considers the confession as a proof, that "truth is making its way "into their bosoms." No! it is not making its way into their bosoms. It has forced its way into their mouths! The evil spirit, by which they are possessed, though essentially a liar, is forced, by the tortures of conscience, to confess the truth; to confess enough for their condemnation, but not for their amendment. Shakspeare very aptly expresses this kind of confes-

sion, devoid of repentance, from the mouth of an usurper, a murderer, and a regicide—

> ——" We are ourselves compelled,
> " Even to the teeth and forehead of our faults,
> " To give in evidence."

Whence is their amendment? Why, the author writes, that on their murderous insurrectionary system their own lives are not sure for an hour; nor has their power a greater stability. True. They are convinced of it, and accordingly the wretches have done all they can to preserve their lives and to secure their power; but not one step have they taken to amend the one, or to make a more just use of the other. Their wicked policy has obliged them to make a pause in the only massacres in which their treachery and cruelty had operated as a kind of savage justice, that is, the massacre of the accomplices of their crimes: They have ceased to shed the inhuman blood of their fellow murderers; but when they take any of those persons who contend for their lawful government, their property, and their religion, notwithstanding the truth, which this author says is making its way into their bosoms, it has not taught them the least tincture of mercy. This we plainly see by their massacre at Quiberon, where they put to death, with every species of contumely, and without any exception, every prisoner of war, who did not escape out of their hands. To have had property, to have been robbed of it, and to endeavour to regain it—these are crimes irremissible, to which every man, who regards his property or his life, in every country, ought well to look in all connexion with those, with whom, to have had property was an offence, to endeavour to keep it, a second offence, to attempt to regain it, a crime, that puts the offender out of all the laws of peace or war. You cannot see one of those wretches without an alarm for your life as well as your goods. They are like the worst of the French and Italian banditti, who, whenever they robbed, were sure to murder.

Are they not the very same ruffians, thieves, assassins, and regicides, that they were from the beginning? Have they diversified the scene by the least variety, or produced the face of a single new villany. *Tædet harum quotidianarum formarum.* Oh! but I shall be answered, it is now quite another thing:—They are all changed:—You have not seen them in their state dresses:—This makes an amazing difference:—The new habit of the directory is so charmingly fancied, that it is impossible not to fall in love with so well dressed a constitution:—The *costume* of the sansculotte constitution of 1793

was absolutely insufferable. The committee for foreign affairs were such slovens, and stunk so abominably, that no *Muscadin* ambassador of the smallest degree of delicacy of nerves could come within ten yards of them:—but now they are so powdered and perfumed and ribbanded and sashed and plumed, that, though they are grown infinitely more insolent in their fine cloths, even than they were in their rags (and that was enough) as they now appear, there is something in it more grand and noble, something more suitable to an awful Roman senate, receiving the homage of dependant tetrarchs. Like that senate (their perpetual model for conduct towards other nations) they permit their vassals (during their good pleasure) to assume the name of kings, in order to bestow more dignity on the suite and retinue of the sovereign republic by the nominal rank of their slaves—*Ut habeant instrumenta servitutis et reges.* All this is very fine, undoubtedly; and ambassadors, whose hands are almost out for want of employment, may long to have their part in this august ceremony of the republic one and indivisible. But, with great deference to the new diplomatic taste, we old people must retain some square-toed predilection for the fashions of our youth. I am afraid you will find me, my lord, again falling into my usual vanity, in valuing myself on the eminent men whose society I once enjoyed. I remember in a conversation I once had with my ever dear friend Garrick, who was the first of actors, because he was the most acute observer of nature I ever knew, I asked him, how it happened that whenever a senate appeared on the stage, the audience seemed always disposed to laughter? He said the reason was plain; the audience was well acquainted with the faces of most of the senators. They knew, that they were no other than candle snuffers, revolutionary scene-shifters, second and third mob, prompters, clerks, executioners, who stand with their ax on their shoulders by the wheel, grinners in the pantomime, murderers in tragedies, who make ugly faces under black wigs; in short, the very scum and refuse of the theatre; and it was of course, that the contrast of the vileness of the actors with the pomp of their habits naturally excited ideas of contempt and ridicule.

So it was at Paris on the inaugural day of the constitution for the present year. The foreign ministers were ordered to attend at this investiture of the directory;—for so they call the managers of their burlesque government. The diplomacy, who were a sort of strangers, were quite awe struck with "the pride, "pomp, and circumstance" of this majestic senate; whilst the sansculotte gallery instantly recognized their old insurrectionary acquaintance, burst out into a horse laugh at their absurd

finery, and hold them in infinitely greater contempt, than whilst they prowled about the streets in the pantaloons of the last year's constitution, when their legislators appeared honestly, with their daggers in their belts, and their pistols peeping out of their side pocket holes, like a bold brave banditti, as they are. The Parisians (and I am much of their mind) think that a thief with a crape on his visage, is much worse than a bare-faced knave; and that such robbers richly deserve all the penalties of all the black acts. In this their thin diguise, their comrades of the late abdicated sovereign Canaille hooted and hissed them; and from that day have no other name for them, than what is not quite so easy to render into English, impossible to make it very civil English: it belongs indeed to the language of the *Halles;* but, without being instructed in that dialect, it was the opinion of the polite Lord Chesterfield, that no man could be a complete master of French. Their Parisian brethren called them *gueux plumées*, which, though not elegant, is expressive and characteristic:—"*feathered scoundrels*" I think comes the nearest to it in that kind of English. But we are now to understand, that these *Gueux*, for no other reason, that I can divine, except their red and white cloaths, form at last a state, with which we may cultivate amity, and have a prospect of the blessings of a secure and permanent peace. In effect then, it was not with the men, or their principles, or their politics, that we quarrelled. Our sole dislike was to the cut of their cloaths.

But to pass over *their* dresses—Good God! in what habits did the representatives of the crowned heads of Europe appear, when they came to swell the pomp of their humiliation, and attended in solemn function this inauguration of regicide? That would be the curiosity. Under what robes did they cover the disgrace and degradation of the whole college of kings? What warehouses of masks and dominos furnished a cover to the nakedness of their shame? The shop ought to be known; it will soon have a good trade. Were the dresses of the ministers of those lately called potentates, who attended on that occasion, taken from the wardrobe of that property man at the opera, from whence my old acquaintance *Anacharsis Cloots*, some years ago, equipped a body of ambassadors, whom he conducted, as from all the nations of the world, to the bar of what was called the Constituent Assembly. Among those mock ministers, one of the most conspicuous figures was the representative of the British nation, who unluckily was wanting at the late ceremony. In the face of all the real ambassadors of the sovereigns of Europe was this ludicrous representation of their

several subjects, under the name of *oppressed sovereigns*,* exhibited to the assembly; that assembly received an harangue in the name of those sovereigns against their kings, delivered by this Cloots, actually a subject of Prussia, under the name of Ambassador of the Human Race. At that time there was only a feeble reclamation from one of the ambassadors of these tyrants and oppressors. A most gracious answer was given to the ministers of the oppressed sovereigns: and they went so far on that occasion as to assign them, in that assumed character, a box at one of their festivals.

I was willing to indulge myself in a hope, that this second appearance of ambassadors was only an insolent mummery of the same kind; but alas! Anacharsis himself, all fanatic as he was, could not have imagined, that his opera procession should have been the prototype of the real appearance of the representatives of all the sovereigns of Europe themselves to make the same prostration that was made by those who dared to represent their people in a complaint against them. But in this the French republic has followed, as they always affect to do, and have hitherto done with success, the example of the ancient Romans, who shook all governments by listening to the complaints of their subjects, and soon after brought the kings themselves to answer at their bar. At this last ceremony the ambassadors had not Cloots for their Cotterel.—Pity that Cloots had not had a reprieve from the guillotine 'till he had compleated his work! But that engine fell before the curtain had fallen upon all the dignity of the earth.

On this their gaudy day the new regicide directory sent for that diplomatic rabble, as bad as themselves in principle, but infinitely worse in degradation. They called them out by a sort of roll of their nations, one after another, much in the manner in which they called wretches out of their prison to the guillotine. When these ambassadors of infamy appeared before them, the chief director, in the name of the rest, treated each of them with a short, affected, pedantic, insolent theatric laconism; a sort of epigram of contempt. When they had thus insulted them in a style and language which never before was heard, and which no sovereign would for a moment endure from another, supposing any of them frantic enough to use it, to finish their outrage, they drummed and trumpeted the wretches out of their hall of audience.

Among the objects of this insolent buffoonery was a person supposed to represent the king of Prussia. To this worthy re-

* *Souverains Opprimés*—See the whole proceeding in the process verbal of the National Assembly.

presentative they did not as much as condescend to mention his master; they did not seem to know that he had one; they addressed themselves solely to Prussia in the abstract, notwithstanding the infinite obligation they owed to their early protector for their first recognition and alliance, and for the part of his territory he gave into their hands for the first-fruits of his homage. None but dead monarchs are so much as mentioned by them, and those only to insult the living by an invidious comparison. They told the Prussians they ought to learn, after the example of Frederick the Great, a love of France. What a pity it is, that he who loved France so well as to chastise it, was not now alive by an unsparing use of the rod (which indeed he would have spared little) to give them another instance of his paternal affection. But the directory were mistaken. These are not days in which monarchs value themselves upon the title of *great:* they are grown *philosophic;* they are satisfied to be good.

Your lordship will pardon me for this no very long reflection on the short but excellent speech of the plumed Director, to the ambassador of Cappadocia. The imperial ambassador was not in waiting, but they found for Austria a good Judean representation. With great judgment his Highness, the Grand Duke, had sent the most atheistic coxcomb to be found in Florence, to represent at the bar of impiety, the house of apostolic majesty, and the descendants of the pious, though high-minded Maria Theresa. He was sent to humble the whole race of Austria before those grim assassins, reeking with the blood of the daughter of Maria Theresa, whom they sent half dead in a dung cart to a cruel execution; and this true-born son of apostacy and infidelity, this renegado from the faith and from all honour and all humanity, drove an Austrian coach over the stones which were yet wet with her blood;—with that blood which dropped every step through her tumbrel, all the way she was drawn from the horrid prison in which they had finished all the cruelty and horrors not executed in the face of the sun! The Hungarian subjects of Maria Theresa, when they drew their swords to defend her rights against France, called her, with correctness of truth, though not with the same correctness, perhaps, of grammar, a king; *Moriamur pro Rege nostro Maria Theresa.*—She lived and died a king, and others will have subjects ready to make the same vow when, in either sex, they show themselves real kings.

When the directory came to this miserable fop, they bestowed a compliment on his matriculation into *their* philosophy; but as to his master, they made to him, as was reasonable, a repri-

mand, not without a pardon, and an oblique hint at the whole family. What indignities have been offered through this wretch to his master, and how well borne, it is not necessary that I should dwell on at present. I hope that those who yet wear royal, imperial, and ducal crowns, will learn to feel as men and as kings; if not, I predict to them, they will not long exist as kings, or as men.

Great Britain was not there. Almost in despair, I hope she will never, in any rags and *coversluts* of infamy, be seen at such an exhibition. The hour of her final degradation is not yet come; she did not herself appear in the regicide presence, to be the sport and mockery of those bloody buffoons, who in the merriment of their pride, were insulting with every species of contumely the fallen dignity of the rest of Europe. But Britain, though not personally appearing to bear her part in this monstrous tragi-comedy, was very far from being forgotten. The new-robed regicides found a representative for her. And who was this representative? Without a previous knowledge, any one would have given a thousand guesses before he could arrive at a tolerable divination of their rancorous insolence. They chose to address what they had to say concerning this nation to the ambassador of America. They did not apply to this ambassador for a mediation:—that, indeed, would have indicated a want of every kind of decency; but it would have indicated nothing more. But, in this their American apostrophe, your lordship will observe they did not so much as pretend to hold out to us directly, or through any mediator, though in the most humiliating manner, any idea whatsoever of peace, or the smallest desire of reconciliation. To the States of America themselves they paid no compliment. They paid their compliment to Washington solely; and on what ground? This most respectable commander and magistrate might deserve commendation on very many of those qualities, which they, who most disapprove some part of his proceedings, not more justly, than freely, attribute to him; but they found nothing to commend in him, "*but the hatred he bore to Great Britain.*" I verily believe, that in the whole history of our European wars, there never was such a compliment paid from the sovereign of one state to a great chief of another. Not one ambassador from any one of those powers, who pretend to live in amity with this kingdom, took the least notice of that unheard-of declaration; nor will Great Britain, till she is known with certainty to be true to her own dignity, find any one disposed to feel for the indignities that are offered to her. To say the truth, those miserable creatures were all silent under the insults, that were

offered to themselves. They pocketed their epigrams, as ambassadors formerly took the gold boxes, and miniature pictures set in diamonds, presented them by sovereigns, at whose courts they had resided. It is to be presumed, that by the next post they faithfully and promptly transmitted to their masters the honours they had received. I can easily conceive the epigram, which will be presented to Lord Auckland or to the Duke of Bedford, as hereafter, according to circumstances, they may happen to represent this kingdom. Few can have so little imagination, as not readily to conceive the nature of the boxes of epigrammatic lozenges, that will be presented to them.

But, *hæ nugæ seria ducunt in mala.* The conduct of the regicide faction is perfectly systematic in every particular, and it appears absurd only as it is strange and uncouth; not as it has an application to the ends and objects of their policy. When by insult after insult they have rendered the character of sovereigns vile in the eyes of their subjects, they know there is but one step more to their utter destruction. All authority in a great degree exists in opinion: royal authority most of all. The supreme majesty of a monarch cannot be allied with contempt. Men would reason not unplausibly, that it would be better to get rid of the monarchy at once, than to suffer that, which was instituted, and well instituted, to support the glory of the nation, to become the instrument of its degradation and disgrace.

A good many reflections will arise in your lordship's mind upon the time and circumstances of that most insulting and atrocious declaration of hostility against this kingdom. The declaration was made subsequent to the noble lord's encomium on the new regicide constitution; after the pamphlet had made something more than advances towards a reconciliation with that ungracious race, and had directly disowned all those who adhered to the original declaration in favour of monarchy. It was even subsequent to the unfortunate declaration in the speech from the throne (which this pamphlet but too truly announced) of the readiness of our government to enter into connexions of friendship with that faction. Here was the answer, from the throne of regicide, to the speech from the throne of Great Britain. They go out of their way to compliment General Washington on the supposed rancour of his heart towards this country. It is very remarkable, that they make this compliment of malice to the chief of the United States, who had first signed a treaty of peace, amity and commerce with this kingdom. This radical hatred, according to their way of thinking, the most recent, solemn compacts of friendship cannot, or ought not,

to remove. In this malice to England, as in the one great comprehensive virtue, all other merits of this illustrious person are entirely merged.—For my part, I do not believe the fact to be so, as they represent it. Certainly it is not for Mr. Washington's honour as a gentleman, a christian, or a president of the United States, after the treaty he has signed, to entertain such sentiments. I have a moral assurance, that the representation of the regicide directory is absolutely false and groundless. If it be, it is a stronger mark of their audacity and insolence, and still a stronger proof of the support they mean to give to the mischievous faction they are known to nourish there to the ruin of those states, and to the end, that no British affections should ever arise in that important part of the world, which would naturally lead to a cordial, hearty British alliance upon the bottom of mutual interest and ancient affection. It shows, in what part it is, and with what a weapon, they mean a deadly blow at the heart of Great Britain. One really would have expected, from this new constitution of theirs, which had been announced as a great reform, and which was to be, more than any of their former experimental schemes, alliable with other nations, that they would, in their very first public act and their declaration to the collected representation of Europe and America, have affected some degree of moderation, or, at least, have observed a guarded silence with regard to their temper and their views. No such thing; they were in haste to declare the principles which are spun into the primitive staple of their frame. They were afraid, that a moment's doubt should exist about them. In their very infancy they were in haste to put their hand on their infernal altar, and to swear the same immortal hatred to England, which was sworn in the succcession of all the short-lived constitutions that preceded it. With them every thing else perishes, almost as soon as it is formed; this hatred alone is immortal. This is their impure vestal fire that never is extinguished; and never will it be extinguished whilst the system of regicide exists in France. What! are we not to believe them? Men are too apt to be deceitful enough in their professions of friendship, and this makes a wise man walk with some caution through life. Such professions, in some cases, may be even a ground of further distrust. But when a man declares himself your unalterable enemy! No man ever declared to another a rancour towards him which he did not feel. *Falsos in amore odia non fingere*, said an author, who points his observations so as to make them remembered.

Observe, my lord, that from their invasion of Flanders and Holland to this hour, they have never made the smallest signifi-

cation of a desire of peace with this kingdom, with Austria, or, indeed, with any other power, that I know of. As superiors, they expect others to begin. We have complied, as you may see. The hostile insolence with which they gave such a rebuff to our first overture in the speech from the throne, did not hinder us from making, from the same throne, a second advance. The two houses, a second time, coincided in the same sentiments with a degree of apparent unanimity, (for there was no dissentient voice but yours) with which, when they reflect on it, they will be as much ashamed, as I am. To this our new humiliating overture (such, at whatever hazard, I must call it) what did the regicide directory answer? Not one public word of a readiness to treat. No, they feel their proud situation too well. They never declared, whether they would grant peace to you or not. They only signified to you their pleasure, as to the terms on which alone they would, in any case, admit you to it. You showed your general disposition to peace, and, to forward it you left every thing open to negotiations. As to any terms you can possibly obtain, they shut out all negotiation at the very commencement. They declared, that they never would make a peace by which any thing that ever belonged to France should be ceded. We would not treat with the monarchy, weakened as it must obviously be in any circumstance of restoration, without a reservation, of something for indemnity and security, and that too in words of the largest comprehension. You treat with the regicides without any reservation at all. On their part, they assure you formally and publicly, that they will give you nothing in the name of indemnity or security, or for any other purpose.

It is impossible not to pause here for a moment, and to consider the manner in which such declarations would have been taken by your ancestors from a monarch distinguished for his arrogance; an arrogance, which, even more than his ambition, incensed and combined all Europe against him. Whatever his inward intentions may have been, did Lewis XIV. ever make a declaration, that the true bounds of France were the ocean, the Mediterranean, and the Rhine? In any overtures for peace, did he ever declare, that he would make no sacrifices to promote it? His declarations were always directly to the contrary; and at the peace of Ryswick his actions were to the contrary. At the close of the war, almost in every instance victorious, all Europe was astonished, even those who received them were astonished, at his concessions. Let those who have a mind to see how little, in comparison, the most powerful and ambitious of all monarchs is to be dreaded, consult the very judicious,

critical observations on the politics of that reign, inserted in the military treatise of the marquis de Montalambert. Let those who wish to know what is to be dreaded from an ambitious republic, consult no author, no military critic, no historical critic. Let them open their own eyes, which degeneracy and pusillanimity have shut from the light, that pains them, and let them not vainly seek their security in a voluntary ignorance of their danger.

To dispose us towards this peace—an attempt, in which our author has, I do not know whether to call it, the good or ill fortune to agree with whatever is most seditious, factious, and treasonable in this country, we are told by many dealers in speculation, but not so distinctly by the author himself (too great distinctness of affirmation not being his fault)—but we are told, that the French have lately obtained a very pretty sort of constitution, and that it resembles the British constitution, as if they had been twinned together in the womb—*miré sagaces fallere hospites discrimen obscurum.* It may be so; but I confess I am not yet made to it; nor is the noble author. He finds the "elements" excellent; but the disposition very inartificial indeed. Contrary to what we might expect at Paris —the meat is good, the cookery abominable. I agree with him fully in the last; and if I were forced to allow the first, I should still think with our old coarse by-word—that the same power, which furnished all their former *restorateurs*, sent also their present cooks. I have a great opinion of Thomas Paine, and of all his productions; I remember his having been one of the committee for forming one of their annual constitutions; I mean the admirable constitution of 1793, after having been a chamber council to the no less admirable constitution of 1791. This pious patriot has his eyes still directed to his dear native country, notwithstanding her ingratitude to so kind a benefactor. This outlaw of England, and lawgiver to France, is now, in secret probably, trying his hand again; and inviting us to him by making his constitution such, as may give his disciples in England some plausible pretext for going into the house that he has opened. We have discovered, it seems, that all, which the boasted wisdom of our ancestors has laboured to bring to perfection for six or seven centuries, is nearly or altogether matched in six or seven days, at the leisure hours and sober intervals of citizen Thomas Paine.

"But though the treacherous tapster Thomas,
"Hangs a new angel two doors from us,
"As fine as daubers' hands can make it,
"In hopes that strangers may mistake it;
"We think it both a shame and sin
"To quit the good old angel inn."

Indeed, in this good old house, where every thing, at least, is well aired, I shall be content to put up my fatigued horses, and here take a bed for the long night that begins to darken upon me. Had I, however, the honour (I must now call it so) of being a member of any of the constitutional clubs, I should think I had carried my point most completely. It is clear, by the applauses bestowed on what the author calls this new constitution, a mixed oligarchy, that the difference between the clubbists and the old adherents to the monarchy of this country is hardly worth a scuffle. Let it depart in peace, and light lie the earth on the British constitution! By this easy manner of treating the most difficult of all subjects, the constitution for a great kingdom, and by letting loose an opinion, that they may be made by any adventurers in speculation in a small given time, and for any country, all the ties, which, whether of reason or prejudice, attach mankind to their old, habitual, domestic governments, are not a little loosened: all communion, which the similarity of the basis has produced between all the governments that compose what we call the christian world and the republic of Europe, would be dissolved. By these hazarded speculations France is more approximated to us in constitution than in situation, and in proportion as we recede from the ancient system of Europe, we approach to that connexion, which alone can remain to us, a close alliance with the new discovered moral and political world in France.

These theories would be of little importance, if we did not only know, but sorely feel, that there is a strong jacobin faction in this country, which has long employed itself in speculating upon constitutions, and to whom the circumstance of their government being home-bred and prescriptive, seems no sort of recommendation. What seemed to us to be the best system of liberty that a nation ever enjoyed, to them seems the yoke of an intolerable slavery. This speculative faction had long been at work. The French revolution did not cause it: it only discovered it, increased it, and gave fresh vigour to its operations. I have reason to be persuaded, that it was in this country, and from English writers and English caballers, that France herself was instituted in this revolutionary fury. The communion of these two factions upon any pretended basis of similarity is a matter of very serious consideration. They are always considering the formal distributions of power in a constitution: the moral basis they consider as nothing. Very different is my opinion: I consider the moral basis as every thing; the formal arrangements, further than as they promote the moral principles of government, and the keeping desperate-

ly wicked persons as the subjects of laws and not the makers of them, to be of little importance. What signifies the cutting and shuffling of cards, while the pack still remains the same? As a basis for such a connection, as has subsisted between the powers of Europe, we had nothing to fear, but from the lapses and frailties of men, and that was enough; but this new pretended republic has given us more to apprehend from what they call their virtues, than we had to dread from the vices of other men. Avowedly and systematically they have given the upper hand to all the vicious and degenerate part of human nature. It is from their lapses and deviations from their principle, that alone we have any thing to hope.

I hear another inducement to fraternity with the present rulers. They have murdered one Robespierre. This Robespierre they tell us was a cruel tyrant, and now that he is put out of the way, all will go well in France. Astræa will again return to that earth from which she has been an emigrant, and all nations will resort to her golden scales. It is very extraordinary, that the very instant the mode of Paris is known here, it becomes all the fashion in London. This is their jargon. It is the old *bon ton* of robbers, who cast their common crimes on the wickedness of their departed associates. I care little about the memory of this same Robespierre. I am sure he was an execrable villain. I rejoiced at his punishment neither more nor less, than I should at the execution of the present directory, or any of its members. But who gave Robespierre the power of being a tyrant? and who were the instruments of his tyranny? The present virtuous constitution-mongers. He was a tyrant, they were his satellites and his hangmen. Their sole merit is in the murder of their colleague. They have expiated their other murders by a new murder. It has always been the case among this banditti. They have always had the knife at each others throats, after they had almost blunted it at the throats of every honest man. These people thought, that, in the commerce of murder, he was like to have the better of the bargain, if any time was lost: they therefore took one of their short revolutionary methods, and massacred him in a manner so perfidious and cruel, as would shock all humanity, if the stroke was not struck by the present rulers on one of their own associates. But this last act of infidelity and murder is to expiate all the rest, and to qualify them for the amity of an humane and virtuous sovereign and civilized people. I have heard that a Tartar believes, when he has killed a man, that all his estimable qualities pass with his clothes and arms to the murderer: But I have never heard, that it was the opinion of any savage Scythian,

that if he kills a brother villain, he is, ipso facto, absolved of all his own offences. The Tartarian doctrine is the most tenable opinion. The murderers of Robespierre, besides what they are entitled to by being engaged in the same tontine of infamy, are his representatives, have inherited all his murderous qualities, in addition to their own private stock. But it seems, we are always to be of a party with the last and victorious assassins. I confess, I am of a different mind; and am rather inclined, of the two, to think and speak less hardly of a dead ruffian, than to associate with the living. I could better bear the stench of the gibbeted murderer, than the society of the bloody felons who yet annoy the world. Whilst they wait the recompense due to their ancient crimes, they merit new punishment by the new offences they commit. There is a period to the offences of Robespierre. They survive in his assassins. Better a living dog, says the old proverb, than a dead lion; not so here. Murderers and hogs never look well till they are hanged. From villany no good can arise, but in the example of its fate. So I leave them their dead Robespierre, either to gibbet his memory, or to deify him in their pantheon with their Marat and their Mirabeau.

It is asserted, that this government promises stability; God of his mercy forbid! If it should, nothing upon earth besides itself can be stable. We declare this stability to be the ground of our making peace with them. Assuming it, therefore, that the men and the system are what I have described, and that they have a determined hostility against this country, an hostility not only of policy but of predilection; then I think that every rational being would go along with me in considering its permanence as the greatest of all possible evils. If, therefore, we are to look for peace with such a thing in any of its monstrous shapes, which I deprecate, it must be in that state of disorder, confusion, discord, anarchy, and insurrection, such as might oblige the momentary rulers to forbear their attempts on neighbouring states, or to render these attempts less operative, if they should kindle new wars. When was it heard before, that the internal repose of a determined and wicked enemy, and the strength of his government, became the wish of his neighbour, and a security against either his malice or his ambition? The direct contrary has always been inferred from that state of things; accordingly, it has ever been the policy of those, who would preserve themselves against the enterprizes of such a malignant and mischievous power, to cut out so much work for him in his own states, as might keep his dangerous activity employed at home.

It is said in vindication of this system, which demands the stability of the regicide power as a ground for peace with them, that when they have obtained, as now, it is said (though not by this noble author) they have, a permanent government, they will be *able* to preserve amity with this kingdom, and with others who have the misfortune to be in their neighbourhood. Granted. They will be *able* to do so, without question; but are they willing to do so? Produce the act; produce the declaration. Have they made any single step towards it? Have they ever once proposed to treat?

The assurance of a stable peace, grounded on the stability of their system, proceeds on this hypothesis, that their hostility to other nations has proceeded from their anarchy at home, and to the prevalence of a populace which their government had not strength enough to master. This I utterly deny. I insist upon it as a fact, that in the daring commencement of all their hostilities, and their astonishing perseverance in them, so as never once in any fortune, high or low, to propose a treaty of peace to any power in Europe, they have never been actuated by the people: on the contrary, the people, I will not say have been moved, but impelled by them, and have generally acted under a compulsion, of which most of us are, as yet, thank God, unable to form an adequate idea. The war against Austria was formally declared by the unhappy Louis XVI.; but who has ever considered Louis XVI. since the revolution, to have been the government? The second regicide assembly, then the only government, was the author of that war, and neither the nominal king nor the nominal people had any thing to do with it further than in a reluctant obedience. It is to delude ourselves to consider the state of France, since their revolution, as a state of anarchy; it is something far worse. Anarchy it is, undoubtedly, if compared with government pursuing the peace, order, morals, and prosperity of the people. But regarding only the power, that has really guided from the day of the revolution to this time, it has been of all governments the most absolute, despotic, and effective, that has hitherto appeared on earth. Never were the views and politics of any government pursued with half the regularity, system, and method, that a diligent observer must have contemplated with amazement and terror in theirs. Their state is not an anarchy, but a series of short-lived tyrannies. We do not call a republic with annual magistrates an anarchy: theirs is that kind of republic; but the succession is not effected by the expiration of the term of the magistrate's service, but by his murder. Every new magistracy succeeding by homicide, is auspicated by accusing its predecessors in

the office of tyranny, and it continues by the exercise of what they charged upon others.

This strong hand is the law, and the sole law, in their state. I defy any person to show any other law, or if any such should be found on paper, that it is in the smallest degree, or in any one instance, regarded or practised. In all their successions, not one magistrate, or one form of magistracy, has expired by a mere, occasional, popular tumult: every thing has been the effect of the studied machinations of the one revolutionary cabal, operating within itself upon itself. That cabal is all in all. France has no public; it is the only nation I ever heard of, where the people are absolutely slaves, in the fullest sense, in all affairs public and private, great and small, even down to the minutest and most recondite parts of their household concerns. The helots of Laconia, the regardants to the manor in Russia and in Poland, even the negroes in the West Indies know nothing of so searching, so penetrating, so heart-breaking a slavery. Much would these servile wretches call for our pity under that unheard-of yoke, if for their perfidious and unnatural rebellion, and for their murder of the mildest of all monarchs, they did not richly deserve a punishment not greater than their crime.

On the whole, therefore, I take it to be a great mistake, to think, that the want of power in the government furnished a natural cause of war; whereas, the greatness of its power, joined to its use of that power, the nature of its system, and the persons who acted in it, did naturally call for a strong military resistance to oppose them, and rendered it not only just, but necessary. But, at present, I say no more on the genius and character of the power set up in France. I may probably trouble you with it more at large hereafter: this subject calls for a very full exposure; at present, it is enough for me, if I point it out as a matter well worthy of consideration, whether the true ground of hostility was not rightly conceived very early in this war, and whether any thing has happened to change that system, except our ill success in a war, which, in no principal instance, had its true destination as the object of its operations. That the war has succeeded ill in many cases, is undoubted; but then let us speak the truth and say, we are defeated, exhausted, dispirited, and must submit. This would be intelligible. The world would be inclined to pardon the abject conduct of an undone nation. But let us not conceal from *ourselves* our real situation, whilst, by every species of humiliation, we are but too strongly displaying our sense of it to the enemy.

The writer of the remarks in the last week of October, appears to think, that the present government in France contains many of the elements, which, when properly arranged, are known to form the best practical governments; and, that the system, whatever may become its particular form, is no longer likely to be an obstacle to negotiation. If its form now be no obstacle to such negotiation, I do not know why it was ever so. Suppose that this government promised greater permanency than any of the former, (a point on which I can form no judgment) still a link is wanting to couple the permanence of the government with the permanence of the peace. On this not one word is said: nor can there be, in my opinion. This deficiency is made up by strengthening the first ringlet of the chain that ought to be, but that is not, stretched to connect the two propositions. All seems to be done, if we can make out, that the last French edition of regicide is like to prove stable.

As a prognostic of this stability, it is said to be accepted by the people. Here again I join issue with the fraternizers, and positively deny the fact. Some submission or other has been obtained, by some means or other, to every government that hitherto has been set up. And the same submission would, by the same means, be obtained for any other project, that the wit or folly of man could possibly devise. The constitution of 1790 was universally received. The constitution, which followed it, under the name of a convention, was universally submitted to. The constitution of 1793 was universally accepted. Unluckily, this year's constitution, which was formed and its genethliacon sung by the noble author while it was yet in embryo, or was but just come bloody from the womb, is the only one, which in its very formation has been generally resisted by a very great and powerful party in many parts of the kingdom, and particularly in the capital. It never had a popular choice even in show; those, who arbitrarily erected the new building out of the old materials of their own convention, were obliged to send for an army to support their work: like brave gladiators they fought it out in the streets of Paris, and even massacred each other in their house of assembly in the most edifying manner, and for the entertainment and instruction of their excellencies the foreign ambassadors, who had a box in this constitutional amphitheatre of a free people.

At length, after a terrible struggle, the troops prevailed over the citizens. The citizen soldiers, the ever famed national guards, who had deposed and murdered their sovereign, were disarmed by the inferior trumpeters of that rebellion. Twenty thousand regular troops garrison Paris. Thus a complete mili-

tary government is formed. It has the strength, and it may count on the stability of that kind of power. This power is to last, as long as the Parisians think proper. Every other ground of stability, but from military force and terror, is clean out of the question. To secure them further, they have a strong corps of irregulars, ready armed. Thousands of those hell-hounds, called terrorists, whom they had shut up in prison on their last revolution, as the satellites of tyranny, are let loose on the people. The whole of their government, in its origination, in its continuance, in all its actions, and in all its resources, is force; and nothing but force. A forced constitution, a forced election, a forced subsistence, a forced requisition of soldiers, a forced loan of money.

They differ nothing from all the preceding usurpations, but that, to the same odium, a good deal more of contempt is added. In this situation, notwithstanding all their military force, strengthened with the undisciplined power of the terrorists, and the nearly general disarming of Paris, there would almost certainly have been before this an insurrection against them, but for one cause. The people of France languish for peace. They all despaired of obtaining it from the coalesced powers, whilst they had a gang of professed regicides at their head; and several of the least desperate republicans would have joined with better men to shake them wholly off, and to produce something more ostensible, if they had not been reiteratedly told, that their sole hope of peace was the very contrary to what they naturally imagined. That they must leave off their cabals and insurrections; which could serve no purpose but to bring in that royalty, which was wholly rejected by the coalesced kings. That, to satisfy them, they must tranquilly, if they could not cordially, submit themselves to the tyranny and the tyrants they despised and abhorred. Peace was held out, by the allied monarchies, to the people of France, as a bounty for supporting the republic of regicides. In fact, a coalition, begun for the avowed purpose of destroying that den of robbers, now exists only for their support. If evil happens to the princes of Europe, from the success and stability of this infernal business, it is their own absolute crime.

We are to understand, however, (for sometimes so the author hints) that something stable in the constitution of regicide was required for our amity with it; but the noble remarker is no more solicitous about this point, than he is for the permanence of the whole body of his October speculations; "If," says he, speaking of the regicide, "they can obtain a practicable constitution, even for a limited period of time, they will be

in a condition to re-establish the accustomed relations of peace and amity." Pray let us leave this bush fighting. What is meant by *a limited period of time?* Does it mean the direct contrary to the terms, an unlimited period? If it is a limited period, what limitation does he fix as a ground for his opinion? Otherwise, his limitation is unlimited. If he only requires a constitution that will last while the treaty goes on, ten days existence will satisfy his demands. He knows, that France never did want a practicable constitution nor a government, which endured for a limited period of time. Her constitutions were but too practicable; and short as was their duration, it was but too long. They endured time enough for treaties, which benefited themselves, and have done infinite mischief to our cause. But, granting him his strange thesis, that, hitherto, the mere form or the mere term of their constitutions, and not their indisposition, but their instability, has been the cause of their not preserving the relations of amity; how could a constitution, which might not last half an hour after the noble lord's signature of the treaty, in the company in which he must sign it, ensure its observance? If you trouble yourself at all with their constitutions, you are certainly more concerned with them after the treaty than before it, as the observance of conventions is of infinitely more consequence than the making them. Can any thing be more palpably absurd and senseless, than to object to a treaty of peace, for want of durability in constitutions, which had an actual duration, and to trust a constitution, that at the time of the writing had not so much as a practical existence? There is no way of accounting for such discourse in the mouths of men of sense, but by supposing, that they secretly entertain a hope, that the very act of having made a peace with the regicides will give a stability to the regicide system. This will not clear the discourse from the absurdity, but it will account for the conduct, which such reasoning so ill defends. What a round about way is this to peace: to make war for the destruction of regicides, and then to give them peace in order to insure a stability, that will enable them to observe it. I say nothing of the honour displayed in such a system. It is plain it militates with itself almost in all the parts of it. In one part it supposes stability in their constitution, as a ground of a stable peace; in another part we are to hope for peace in a different way; that is, by splitting this brilliant orb into little stars, and this would make the face of heaven so fine. No, there is no system upon which the peace, which in humility we are to supplicate, can possibly stand.

I believe, before this time, that the mere form of a constitu-

tion, in any country, never was fixt as the sole ground of objecting to a treaty with it. With other circumstances it may be of great moment. What is incumbent on the assertors of the fourth week of October system to prove, is not whether their then expected constitution was likely to be stable or transitory, but whether it promised to this country and its allies, and to the peace and settlement of all Europe, more good will, or more good faith, than any of the experiments which have gone before it. On these points I would willingly join issue.

Observe, first, the manner in which the remarker describes, (very truly as I conceive) the people of France, under that auspicious government, and then observe the conduct of that government to other nations. "The people without *any* established constitution; distracted by popular convulsions; in "a state of inevitable bankruptcy; without any commerce; "with their principal ports blockaded, and without a fleet that "could venture to face one of our *detached squadrons*." Admitting, as fully as he has stated it, this condition of France, I would fain know, how he reconciles this condition with his ideas of *any kind of a practicable constitution*, or *duration for a limited period*, which are his *sine qua non* of peace. But, passing by contradictions, as no fair objections to reasoning, this state of things would naturally, at other times, and in other governments, have produced a disposition to peace, almost on any terms. But, in that state of their country, did the regicide government solicit peace or amity with other nations, or even lay any specious grounds for it in propositions of affected moderation, or in the most loose and general conciliatory language? The direct contrary. It was but a very few days before the noble writer had commenced his remarks, as if it were to refute him by anticipation, that his France thought fit to lay out a new territorial map of dominion, and to declare to us and to all Europe what territories she was willing to allot to her own empire, and what she is content (during her good pleasure) to leave to others.

This their law of empire was promulgated without any requisition on that subject, and proclaimed in a style, and upon principles, which never had been heard of in the annals of arrogance and ambition. She prescribed the limits to her empire, not upon principles of treaty, convention, possession, usage, habitude, the distinction of tribes, nations, or languages, but by physical aptitudes. Having fixed herself as the arbiter of physical dominion, she construed the limits of nature by her convenience. That was nature, which most extended and best secured the empire of France.

I need say no more on the insult offered, not only to all equity and justice, but to the common sense of mankind, in deciding legal property by physical principles, and establishing the convenience of a party as a rule of public law. The noble advocate for peace has, indeed, perfectly well exploded this daring and outrageous system of pride and tyranny. I am most happy in commending him, when he writes like himself. But hear, still further, and in the same good strain, the great patron and advocate of amity with this accommodating, mild and unassuming power, when he reports to you the law they give, and its immediate effects.—"They amount, says he, to the sacrifice of powers, that have been the most nearly connected with us: the direct, or indirect, annexation to France of all the ports of the continent, from Dunkirk to Hamburgh; an immense accession of territory; and, in one word, THE ABANDONMENT OF THE INDEPENDENCE OF EUROPE!" This is the LAW (the author and I use no different terms) which this new government, almost as soon as it could cry in the cradle, and as one of the very first acts, by which it auspicated its entrance into function; the pledge it gives of the firmness of its policy; such is the law, that this proud power prescribes to abject nations. What is the comment upon this law, by the great jurist, who recommends us to the tribunal which issued the decree. "An obedience to it, would be (says he) dishonourable to us, and exhibit us to the present age and to posterity, as submitting to the law prescribed to us by our enemy."

Here I recognize the voice of a British plenipotentiary: I begin to feel proud of my country. But, alas, the short date of human elevation! The accents of dignity died upon his tongue. This author will not assure us of his sentiments for the whole of a pamphlet; but in the sole energetic part of it, he does not continue the same through a whole sentence, if it happens to be of any sweep or compass. In the very womb of this last sentence, pregnant, as it should seem, with a Hercules, there is formed a little bantling of the mortal race, a degenerate puny parenthesis, that totally frustrates our most sanguine views and expectations, and disgraces the whole gestation. Here is this destructive parenthesis, "unless some adequate compensation be secured *to us*."—*To us!* The christian world may shift for itself, Europe may groan in slavery, we may be dishonoured by receiving law from an enemy, but all is well, provided the compensation *to us* be adequate. To what are we reserved? An *adequate* compensation "for the sacrifice of powers the most nearly connected with us;"—an *adequate* compensation "for the direct or indirect annexation to France

"of all the ports of the continent, from Dunkirk to Hamburgh;" —an *adequate* compensation "for the abandonment of the inde-"pendence of Europe!" Would that when all our manly sentiments are thus changed, our manly language were changed along with them; and that the English tongue were not employed to utter what our ancestors never dreamed could enter into an English heart!

But let us consider this matter of adequate compensation.—Who is to furnish it? From what funds is it to be drawn? Is it by another treaty of commerce? I have no objections to treaties of commerce, upon principles of commerce.—Traffick for traffick—all is fair. But commerce, in exchange for empire, for safety, for glory! We set out in our dealing with a miserable cheat upon ourselves. I know it may be said that we may prevail on this proud, philosophical, military republic, which looks down with contempt on trade, to declare it unfit for the sovereign of nations to be *eundem negotiatorem et dominum;* that, in virtue of this maxim of her state, the English in France may be permitted, as the Jews are in Poland and in Turkey, to execute all the little inglorious occupations; to be the sellers of new and the buyers of old cloaths; to be their brokers and factors, and to be employed in casting up their debits and credits, whilst the master republic cultivates the arts of empire, prescribes the forms of peace to nations, and dictates laws to a subjected world. But are we quite sure that, when we have surrendered half Europe to them in hope of this compensation, the republic will confer upon us those privileges of dishonour? Are we quite certain, that she will permit us to farm the guillotine; to contract for the provision of her twenty thousand Bastiles; to furnish transports for the myriads of her exiles to Guiana; to become commissioners for her naval stores, or to engage for the clothing of those armies which are to subdue the poor reliques of christian Europe? No! She is bespoke by the Jew subjects of her own Amsterdam for all these services.

But if these, or matters similar, are not the compensations the remarker demands, and that, on consideration, he finds them neither adequate nor certain, who else is to be the chapman, and to furnish the purchase money at this market of all the grand principles of empire, of law, of civilization, of morals, and of religion; where British faith and honour are to be sold by inch of candle? Who is to be the *dedecorum pretiosus emptor?* Is it the *Navis Hispanæ Magister?* Is it to be furnished by the prince of Peace? Unquestionably. Spain as yet possesses mines of gold and silver; and may give us in *pesos duros* an adequate compensation for our honour and our virtue. When

these things are at all to be sold, they are the vilest commodities at market.

It is full as singular, as any of the other singularities in this work, that the remarker, talking so much, as he does, of cessions and compensations, passes by Spain in his general settlement, as if there were no such country on the globe: as if there were no Spain in Europe, no Spain in America. But this great matter of political deliberation cannot be put out of our thoughts by his silence. She *has* furnished compensations;—not to you, but to France. The regicide republic, and the still nominally subsisting monarchy of Spain, are united, and are united upon a principle of jealousy, if not of bitter enmity to Great Britain. The noble writer has here another matter for meditation. It is not from Dunkirk to Hamburgh that the ports are in the hands of France: they are in the hands of France from Hamburgh to Gibraltar. How long the new dominion will last, I cannot tell; but France the republic has conquered Spain, and the ruling party in that court acts by her orders and exists by her power.

The noble writer, in his views into futurity, has forgotten to look back to the past. If he chooses it, he may recollect, that on the prospect of the death of Philip the Fourth, and still more on the event, all Europe was moved to its foundations. In the treaties of partition, that first were entered into, and in the war that afterwards blazed out, to prevent those crowns from being actually or virtually united in the house of Bourbon, the predominance of France in Spain, and, above all, in the Spanish Indies, was the great object of all these movements in the cabinet and in the field. The grand alliance was formed upon that apprehension.—On that apprehension the mighty war was continued during such a number of years, as the degenerate and pusillanimous impatience of our dwindled race can hardly bear to have reckoned:—a war, equal within a few years in duration, and not perhaps inferior in bloodshed, to any of those great contests for empire, which in history make the most awful matter of recorded memory.

> Ad confligendum venientibus undiq; Pœnis,
> Omnia cum belli trepido concussa tumultu
> Horrida contremuere sub altis ætheres auris,
> In dubioq; fuit sub utrorum regna cadendum
> Omnibus humanis esset terrâq; mariq;—

When this war was ended (I cannot stay now to examine how) the object of the war was the object of the treaty. When it was found impracticable, or less desirable than before, wholly to exclude a branch of the Bourbon race from that immense succession, the point of Utrecht was to prevent the mischiefs to

arise from the influence of the greater upon the lesser branch. His lordship is a great member of the diplomatic body; he has of course all the fundamental treaties, which make the public statute law of Europe, by heart; and indeed no active member of parliament ought to be ignorant of their general tenour and leading provisions. In the treaty, which closed that war, and of which it is a fundamental part, because relating to the whole policy of the compact, it was agreed, that Spain should not give any thing from her territory in the West Indies to France. This article, apparently onerous to Spain, was in truth highly beneficial. But, oh, the blindness of the greatest statesman to the infinite and unlooked-for combinations of things, which lie hid in the dark prolific womb of futurity! The great trunk of Bourbon is cut down; the withered branch is worked up into the construction of a French regicide republic. Here we have formed a new, unlooked-for, monstrous, heterogeneous alliance; a double-natured monster; republic above and monarchy below. There is no centaur of fiction, no poetic satyr of the woods; nothing short of the hieroglyphic monsters of Ægypt, dog in head and man in body, that can give an idea of it. None of these things can subsist in nature (so at least it is thought;) but the moral world admits monsters which the physical rejects.

In this metamorphosis, the first thing done by Spain, in the honey-moon of her new servitude, was, with all the hardihood of pusillanimity, utterly to defy the most solemn treaties with Great Britain, and the guarantee of Europe. She has yielded the largest and fairest part of one of the largest and fairest islands in the West Indies, perhaps on the globe, to the usurped powers of France. She completes the title of those powers to the whole of that important central island of Hispaniola. She has solemnly surrendered to the regicides and butchers of the Bourbon family, what that court never ventured, perhaps never wished, to bestow on the patriarchal stock of her own august house.

The noble negotiator takes no notice of this portentous junction, and this audacious surrender. The effect is no less than the total subversion of the balance of power in the West Indies, and indeed every where else. This arrangement, considered in itself, but much more as it indicates a complete union of France with Spain, is truly alarming. Does he feel nothing of the change this makes in that part of his description of the state of France, where he supposes her not able to face one of our detached squadrons? Does he feel nothing for the condition of Portugal under this new coalition? Is it for this state of things

he recommends our junction in that common alliance as a remedy? It is surely already monstrous enough. We see every standing principle of policy, every old governing opinion of nations, completely gone; and with it the foundation of all their establishments. Can Spain keep herself internally where she is, with this connexion? Does he dream, that Spain, unchristian, or even uncatholic, can exist as a monarchy? This author indulges himself in speculations of the division of the French republic. I only say, that with much greater reason he might speculate on the republicanism and the subdivision of Spain.

It is not peace with France which secures that feeble government; it is that peace which, if it shall continue, decisively ruins Spain. Such a peace is not the peace which the remnant of christianity celebrates at this holy season. In it there is no glory to God on high, and not the least tincture of good will to man. What things we have lived to see! The king of Spain in a group of Moors, Jews, and renegadoes, and the clergy taxed to pay for his conversion! The catholic king in the strict embraces of the most unchristian republic! I hope we shall never see his apostolic majesty, his faithful majesty, and the king, defender of the faith, added to that unhallowed and impious fraternity.

The noble author has glimpses of the consequences of peace as well as I. He feels for the colonies of Great Britain, one of the principal resources of our commerce and our naval power, if piratical France shall be established, as he knows she must be, in the West Indies, if we sue for peace on such terms as they may condescend to grant us. He feels, that their very colonial system for the interior is not compatible with the existence of our colonies. I tell him, and doubt not I shall be able to demonstrate, that, being what she is, if she possesses a rock there we cannot be safe. Has this author had in his view the transactions between the regicide republic and the yet nominally subsisting monarchy of Spain?

I bring this matter under your lordship's consideration, that you may have a more complete view than this author chooses to give, of the *true France* you have to deal with, as to its nature, and as to its force and its disposition. Mark it, my lord, France, in giving her law to Spain, stipulated for none of her indemnities in Europe, no enlargement whatever of her frontier. Whilst we are looking for indemnities from France, betraying our own safety in a sacrifice of the independence of Europe, France secures hers by the most important acquisition of territory ever made in the West Indies, since their first settlement.

She appears (it is only in appearance) to give up the frontier of Spain, and she is compensated, not in appearance, but in reality, by a territory, that makes a dreadful frontier to the colonies of Great Britain.

It is sufficiently alarming, that she is to have the possession of this great island. But all the Spanish colonies virtually are hers. Is there so puny a whipster in the *petty form* of the school of politics, who can be at a loss for the fate of the British colonies, when he combines the French and Spanish consolidation with the known critical and dubious dispositions of the United States of America, as they are at present, but which, when a peace is made, when the basis of a regicide ascendency in Spain is laid, will no longer be so good as dubious and critical? But I go a great deal further, and on much consideration of the condition and circumstances of the West Indies, and of the genius of this new republic, as it has operated, and is likely to operate on them, I say, that if a single rock in the West Indies is in the hands of this *transatlantic Morocco*, we have not an hour's safety there.

The remarker, though he slips aside from the main consideration, seems aware, that this arrangement, standing as it does, in the West Indies, leaves us at the mercy of the new coalition, or rather at the mercy of the sole guiding part of it. He does not indeed adopt a supposition, such as I make, who am confident, that any thing which can give them a single good port and opportune piratical station there, would lead to our ruin; the author proceeds upon an idea, that the regicides may be an existing and considerable territorial power in the West-Indies, and, of course, her piratical system more dangerous, and as real; however, for that desperate case he has an easy remedy; but surely, in his whole shop there is nothing so extraordinary. It is, that we three, France, Spain and England, (there are no other of any moment) should adopt some "*analogy* in the in-"terior systems of government in the several islands, which "we may respectively retain after the closing of the war."—This plainly can be done only by a convention between the parties, and I believe it would be the first war ever made to terminate in an analogy of the interior government of any country, or any parts of such countries. Such a partnership in domestic government is, I think, carrying fraternity as far as it will go.

It will be an affront to your sagacity to pursue this matter into all its details; suffice it to say, that if this convention for analogous domestic government is made, it immediately gives a right for the residence of a consul (in all likelihood some ne-

gro or man of colour) in every one of your islands; a regicide ambassador in London will be at all your meetings of West India merchants and planters, and, in effect, in all our colonial councils. Not one order of council can hereafter be made, or any one act of parliament relative to the West India colonies even be agitated, which will not always afford reasons for protests and perpetual interference; the regicide republic will become an integral part of the colonial legislature; and, so far as the colonies are concerned, of the British too. But it will be still worse; as all our domestic affairs are interlaced, more or less intimately, with our external, this intermeddling must every where insinuate itself into all other interior transactions, and produce a copartnership in our domestic concerns of every description.

Such are the plain inevitable consequences of this arrangement of a system of analogous interior government. On the other hand, without it, the author assures us, and in this I heartily agree with him, "that the correspondence and communications "between the neighbouring colonies will be great; that the dis-"agreements will be incessant, and that causes even of national "quarrels will arise *from day to day*." Most true. But, for the reasons I have given, the case, if possible, will be worse by the proposed remedy, by the triple fraternal interior analogy;—an analogy itself most fruitful, and more foodful, than the old Ephesian statue with the three tier of breasts. Your lordship must also observe how infinitely this business must be complicated by our interference in the slow-paced Saturnian movements of Spain, and the rapid parabolic flights of France. But such is the disease, such is the cure, such is and must be the effect of regicide vicinity.

But what astonishes me is, that the negotiator, who has certainly an exercised understanding, did not see, that every person, habituated to such meditations, must necessarily pursue the train of thought further than he has carried it; and must ask himself, whether, what he states so truly of the necessity of our arranging an analogous interior government, in consequence of the vicinity of our possessions in the West Indies, does as extensively apply, and much more forcibly, to the circumstance of our much nearer vicinity with the parent and author of this mischief. I defy even his acuteness and ingenuity to show me any one point in which the cases differ, except that it is plainly more necessary in Europe than in America. Indeed, the further we trace the details of the proposed peace, the more your lordship will be satisfied that I have not been guilty of any abuse of terms, when I use indiscriminately (as I always do in speak-

ing of arrangements with regicide) the words peace and fraternity. An analogy between our interior governments must be the consequence. The noble negotiator sees it as well as I do, I deprecate this jacobin interior analogy. But, hereafter, perhaps, I may say a good deal more upon this part of the subject.

The noble lord insists on very little more than on the excellence of their constitution, the hope of their dwindling into little republics, and this close copartnership in government. I hear of others indeed that offer, by other arguments, to reconcile us to this peace and fraternity; the regicides, they say, have renounced the creed of the rights of man, and declared equality a chimera. This is still more strange than all the rest. They have apostatised from their apostacy. They are renegadoes from that impious faith for which they subverted the ancient government, murdered their king, and imprisoned, butchered, confiscated, and banished their fellow subjects; and to which they forced every man to swear at the peril of his life. And now to reconcile themselves to the world, they declare this creed, bought by so much blood, to be an imposture and a chimera. I have no doubt that they always thought it to be so, when they were destroying every thing at home and abroad for its establishment. It is no strange thing to those, who look into the nature of corrupted man, to find a violent persecutor a perfect unbeliever of his own creed. But this is the very first time that any man or set of men were hardy enough to attempt to lay the ground of confidence in them, by an acknowledgment of their own falsehood, fraud, hypocrisy, treachery, heterodox doctrine, persecution, and cruelty. Every thing we hear from them is new, and, to use a phrase of their own, *revolutionary*; every thing supposes a total revolution in all the principles of reason, prudence, and moral feeling.

If possible, this their recantation of the chief parts in the canon of the rights of man, is more infamous, and causes greater horror than their originally promulgating, and forcing down the throats of mankind, that symbol of all evil. It is raking too much into the dirt and ordure of human nature to say more of it.

I hear it said, too, that they have lately declared in favour of property. This is exactly of the same sort with the former. What need had they to make this declaration, if they did not know, that by their doctrines and practices they had totally subverted all property. What government of Europe, either in its origin or its continuance, has thought it necessary to declare itself in favour of property. The more recent ones were

formed for its protection against former violations: the old consider the inviolability of property and their own existence as one and the same thing; and that a proclamation for its safety would be sounding an alarm on its danger. But the regicide banditti knew, that this was not the first time they have been obliged to give such assurances, and had as often falsified them. They knew, that after butchering hundreds of men, women, and children, for no other cause than to lay hold on their property, such a declaration might have a chance of encouraging other nations to run the risk of establishing a commercial house amongst them. It is notorious, that these very jacobins, upon an alarm of the shop-keeper of Paris, made this declaration in favour of property. These brave fellows received the apprehensions expressed on that head with indignation; and said, that property could be in no danger, because all the world knew it was under the protection of the *Sansculottes*. At what period did they not give this assurance? Did they not give it when they fabricated their first constitution? Did they not then solemnly declare it one of the rights of a citizen (a right, of course, only declared, and not then fabricated) to depart from his country, and choose another *domicilium*, without detriment to his property? Did they not declare, that no property should be confiscated from the children for the crime of the parent? Can they now declare more fully their respect for property than they did at that time? And yet, was there ever known such horrid violences and confiscations as instantly followed under the very persons now in power, many of them leading members of that assembly, and all of them violators of that engagement which was the very basis of their republic—confiscations in which hundreds of men, women, and children, not guilty of one act of duty in resisting their usurpation, were involved. This keeping of their old, is, then, to give us a confidence in their new engagements. But examine the matter, and you will see, that the prevaricating sons of violence give no relief at all, where at all it can be wanted. They renew their old fraudulent declaration against confiscations, and then they expressly exclude all adherents to their ancient lawful government from any benefit of it: that is to say, they promise that they will secure all their brother plunderers in their share of the common plunder. The fear of being robbed by every new succession of robbers, who do not keep even the faith of that kind of society, absolutely required, that they should give security to the dividends of spoil; else they could not exist a moment. But it was necessary, in giving security to robbers, that honest men should be deprived

of all hope of restitution; and thus their interests were made utterly and eternally incompatible. So that it appears, that this boasted security of property is nothing more than a seal put upon its destruction: this ceasing of confiscation is to secure the confiscators against the innocent proprietors. That very thing which is held out to you as your cure, is that which makes your malady, and renders it, if once it happens, utterly incurable. You, my lord, who possess a considerable, though not an invidious estate, may be well assured, that if, by being engaged, as you assuredly would be, in the defence of your religion, your king, your order, your laws, and liberties, that estate should be put under confiscation, the property would be secured, but in the same manner, at your expense.

But, after all, for what purpose are we told of this reformation in their principles, and what is the policy of all this softening in ours, which is to be produced by their example? It is not to soften us to suffering innocence and virtue, but to mollify us to the crimes and to the society of robbers and ruffians! But I trust that our countrymen will not be softened to that kind of crimes and criminals; for if we should, our hearts will be hardened to every thing which has a claim on our benevolence. A kind Providence has placed in our breasts a hatred of the unjust and cruel, in order that we may preserve ourselves from cruelty and injustice. They who bear cruelty, are accomplices in it. The pretended gentleness which excludes that charitable rancour, produces an indifference which is half an approbation. They never will love where they ought to love, who do not hate where they ought to hate.

There is another piece of policy not more laudable than this, in reading these moral lectures, which lessens our hatred to criminals, and our pity to sufferers, by insinuating that it has been owing to their fault or folly, that the latter have become the prey of the former. By flattering us, that we are not subject to the same vices and follies, it induces a confidence, that we shall not suffer the same evils by a contact with the infamous gang of robbers who have thus robbed and butchered our neighbours before our faces. We must not be flattered to our ruin. Our vices are the same as theirs, neither more nor less. If any faults we had, which wanted this French example to call us to a "*softening* of character, and a review of our social relations and duties," there is yet no sign that we have commenced our reformation. We seem, by the best accounts I have from the world, to go on just as formerly, "some to undo, and some to be undone." There is no change at all: and if we are not bettered by the sufferings of war, this peace, which,

for reasons to himself best known, the author fixes as the period of our reformation, must have something very extraordinary in it; because, hitherto, ease, opulence, and their concomitant pleasure, have never greatly disposed mankind to that serious reflection and review, which the author supposes to be the result of the approaching peace with vice and crime. I believe he forms a right estimate of the nature of this peace; and that it will want many of those circumstances, which formerly characterized that state of things.

If I am right in my ideas of this new republic, the different states of peace and war will make no difference in her pursuits. It is not an enemy of accident that we have to deal with. Enmity to us and to all civilized nations is wrought into the very stamina of its constitution. It was made to pursue the purposes of that fundamental enmity. The design will go on regularly in every position and in every relation. Their hostility is to break us to their dominion: their amity is to debauch us to their principles. In the former we are to contend with their force; in the latter with their intrigues. But we stand in a very different posture of defence in the two situations. In war, so long as government is supported, we fight with the whole united force of the kingdom. When under the name of peace the war of intrigue begins, we do not contend against our enemies with the whole force of the kingdom. No —we shall have to fight (if it should be a fight at all, and not an ignominious surrender of every thing which has made our country venerable in our eyes and dear to our hearts) we shall have to fight with but a portion of our strength against the whole of theirs. Gentlemen who, not long since, thought with us, but who now recommend a jacobin peace, were at that time sufficiently aware of the existence of a dangerous jacobin faction within this kingdom. A while ago, they seemed to be tremblingly alive to the number of those who composed it, to their dark subtilty, to their fierce audacity, to their admiration of every thing that passes in France, to their eager desire of a close communication with the mother faction there. At this moment, when the question is upon the opening of that communication, not a word of our English jacobins. That faction is put out of sight and out of thought. "It vanished at the crowing of the cock." Scarcely had the Gallic harbinger of peace and light began to utter his lively notes, than all the cackling of us poor tory geese to alarm the garrison of the capitol was forgot.* There was enough of indemni-

* Hic auratis volitans argenteus anser
Porticibus, Gallos in limine adesse canebat.

ty before. Now a complete act of oblivion is passed about the jacobins of England, though one would naturally imagine it would make a principal object in all fair deliberation upon the merits of a project of amity with the jacobins of France. But however others may choose to forget the faction, the faction does not choose to forget itself, nor, however gentlemen may choose to flatter themselves, it does not forget them.

Never in any civil contest has a part been taken with more of the warmth, or carried on with more of the arts of a party. The jacobins are worse than lost to their country. Their hearts are abroad. Their sympathy with the regicides of France is complete. Just as in a civil contest, they exult in all their victories; they are dejected and mortified in all their defeats. Nothing that the regicides can do, (and they have laboured hard for the purpose) can alienate them from their cause. You and I, my dear lord, have often observed on the spirit of their conduct. When the jacobins of France, by their studied, deliberated, catalogued files of murders, with the poignard, the sabre and the tribunal, have shocked whatever remained of human sensibility in our breasts, then it was they distinguished the resources of party policy. They did not venture directly to confront the public sentiment; for a very short time they seemed to partake of it. They began with a reluctant and sorrowful confession: they deplored the stains which tarnished the lustre of a good cause. After keeping a decent time of retirement, in a few days crept out an apology for the excesses of men cruelly irritated by the attacks of unjust power. Grown bolder, as the first feeling of mankind decayed, and the colour of these horrors began to fade upon the imagination, they proceeded from apology to defence. They urged, but still deplored, the absolute necessity of such a proceeding. Then they made a bolder stride, and marched from defence to recrimination. They attempted to assassinate the memory of those whose bodies their friends had massacred; and to consider their murder as a less formal act of justice. They endeavoured even to debauch our pity, and to suborn it in favour of cruelty. They wept over the lot of those who were driven by the crimes of aristocrats to republican vengeance. Every pause of their cruelty they considered as a return of their natural sentiments of benignity and justice. Then they had recourse to history; and found out all the recorded cruelties that deform the annals of the world, in order that the massacres of the regicides might pass for a common event; and even that the most merciful of princes, who suffered by their hands, should bear the iniquity of all the tyrants who have at any time infested the earth. In

order to reconcile us the better to this republican tyranny, they confounded the bloodshed of war with the murders of peace; and they computed how much greater prodigality of blood was exhibited in battles and in the storm of cities, than in the frugal well-ordered massacres of the revolutionary tribunals of France.

As to foreign powers, so long as they were conjoined with Great-Britain in this contest, so long they were treated as the most abandoned tyrants, and, indeed, the basest of the human race. The moment any of them quits the cause of this government, and of all governments, he is rehabilitated, his honour is restored, all attainders are purged. The friends of jacobins are no longer despots; the betrayers of the common cause are no longer traitors.

That you may not doubt that they look on this war as a civil war, and the jacobins of France as of their party, and that they look upon us, though locally their countrymen, in reality as enemies, they have never failed to run a parallel between our late civil war and this war with the jacobins of France. They justify their partiality to those jacobins by the partiality which was shown by several here to the colonies; and they sanction their cry for peace with the regicides of France by some of our propositions for peace with the English in America.

This I do not mention as entering into the controversy, how far they are right or wrong in this parallel, but to show that they do make it, and that they do consider themselves as of a party with the jacobins of France. You cannot forget their constant correspondence with the jacobins whilst it was in their power to carry it on. When the communication is again opened, the interrupted correspondence will commence. We cannot be blind to the advantage which such a party affords to regicide France in all her views; and, on the other hand, what an advantage regicide France holds out to the views of the republican party in England. Slightly as they have considered their subject, I think this can hardly have escaped the writers of political ephemerides for any month or year. They have told us much of the amendment of the regicides of France, and of their returning honour and generosity. Have they told any thing of the reformation, and of the returning loyalty of the jacobins of England? Have they told us of *their* gradual softening towards royalty; have they told us what measures *they* are taking for "putting the crown in commission," and what approximations of any kind *they* are making towards the old constitution of their country? Nothing of this. The silence of these writers is dreadfully expressive. They dare not touch

the subject: but it is not annihilated by their silence, nor by our indifference. It is but too plain, that our constitution cannot exist with such a communication. Our humanity, our manners, our morals, our religion, cannot stand with such a communication: the constitution is made by those things, and for those things: without them it cannot exist; and without them it is no matter whether it exists or not.

It was an ingenious parliamentary Christmas play, by which, in both houses, you anticipated the holidays;—it was a relaxation from your graver employment;—it was a pleasant discussion you had, which part of the family of the constitution was the elder branch?—whether one part did not exist prior to the others; and whether it might exist and flourish if "the others were cast into the fire?"* In order to make this saturnalian amusement general in the family, you sent it down stairs, that judges and juries might partake of the entertainment. The unfortunate antiquary and augur, who is the butt of all this sport, may suffer in the roystering horse-play and practical jokes of the servants' hall. But whatever may become of him, the discussion itself and the timing it put me in mind of what I have read (where, I do not recollect) that the subtle nation of the Greeks were busily employed, in the church of Santa Sophia, in a dispute of mixed natural philosophy, metaphysics, and theology, whether the light on mount Tabor was created or uncreated, and were ready to massacre the holders of the unfashionable opinion, at the very moment when the ferocious enemy of all philosophy and religion, Mahomet the Second, entered through a breach, into the capitol of the christian world. I may possibly suffer much more than Mr. Reeves (I shall certainly give much more general offence) for breaking in upon this constitutional amusement concerning the created or uncreated nature of the two houses of parliament, and by calling their attention to a problem, which may entertain them less, but which concerns them a great deal more, that is, whether with this Gallic jacobin fraternity, which they are desired by some writers to court, all the parts of the government, about whose combustible or incombustible qualities they are contending, may "not be cast into the fire" together. He is a strange visionary (but he is nothing worse) who fancies that any one part of our constitution, whatever right of primogeniture it may claim, or whatever astrologers may divine from its horoscope, can possibly survive the others. As they have lived, so they will die together. I must do justice to the impartiality of the jacobins. I

* See debates in parliament upon motions, made in both houses, for prosecuting Mr. Reeves for a libel upon the constitution, Dec. 1795.

have not observed amongst *them* the least predilection for any of those parts. If there has been any difference in their malice, I think they have shown a worse disposition to the house of commons than to the crown. As to the house of lords, they do not speculate at all about it; and for reasons that are too obvious to detail.

The question will be concerning the effect of this French fraternity on the whole mass. Have we any thing to apprehend from jacobin communication, or have we not? If we have not, is it by our experience before the war, that we are to presume that, after the war, no dangerous communion can exist between those who are well affected to the new constitution of France, and ill affected to the old constitution here?

In conversation I have not yet found nor heard of any persons, except those who undertake to instruct the public, so unconscious of the actual state of things, or so little prescient of the future, who do not shudder all over, and feel a secret horror at the approach of this communication. I do not except from this observation, those who are willing, more than I find myself disposed, to submit to this fraternity. Never has it been mentioned in my hearing, or from what I can learn in my inquiry, without the suggestion of an alien bill, or some other measures of the same nature, as a defence against its manifest mischief. Who does not see the utter insufficiency of such a remedy, if such a remedy could be at all adopted? We expel suspected foreigners from hence, and we suffer every Englishman to pass over into France, to be initiated in all the infernal discipline of the place, to cabal, and to be corrupted, by every means of cabal and of corruption; and then to return to England, charged with their worst dispositions and designs. In France he is out of the reach of your police; and when he returns to England, one such English emissary is worse than a legion of French, who are either tongue-tied, or whose speech betrays them. But the worst aliens are the ambassador and his train. These you cannot expel without a proof (always difficult) of direct practice against the state. A French ambassador, at the head of a French party, is an evil which we have never experienced. The mischief is by far more visible than the remedy. But, after all, every such measure as an alien bill, is a measure of hostility, a preparation for it, or a cause of dispute that shall bring it on. In effect, it is fundamentally contrary to a relation of amity, whose essence is a perfectly free communication. Every thing done to prevent it will provoke a foreign war. Every thing, when we let it proceed, will produce domestic distraction. We shall be in a perpetual dilemma; but it is easy to see.

which side of the dilemma will be taken. The same temper which brings us to solicit a jacobin peace, will induce us to temporise with all the evils of it. By degrees our minds will be made to our circumstances. The novelty of such things, which produces half the horror and all the disgust, will be worn off. Our ruin will be disguised in profit, and the sale of a few wretched baubles will bribe a degenerate people to barter away the most precious jewel of their souls. Our constitution is not made for this kind of warfare. It provides greatly for our happiness, it furnishes few means for our defence. It is formed, in a great measure, upon the principle of jealousy of the crown; and as things stood, when it took that turn, with very great reason. I go farther, it must keep alive some part of that fire of jealousy eternally and chastly burning, or it cannot be the British constitution. At various periods we have had tyranny in this country, more than enough. We have had rebellions with more or less justification. Some of our kings have made adulterous connexions abroad, and trucked away, for foreign gold, the interests and glory of their crown. But, before this time, our liberty has never been corrupted. I mean to say, that it has never been debauched from its domestic relations. To this time it has been English liberty, and English liberty only. Our love of liberty, and our love of our country, were not distinct things. Liberty is now, it seems, put upon a larger and more liberal bottom. We are men, and as men, undoubtedly, nothing human is foreign to us. We cannot be too liberal in our general wishes for the happiness of our kind. But in all questions on the mode of procuring it for any particular community, we ought to be fearful of admitting those, who have no interest in it, or who have, perhaps, an interest against it, into the consultation. Above all, we cannot be too cautious in our communication with those, who seek their happiness by other roads than those of humanity, morals, and religion, and whose liberty consists, and consists alone, in being free from those restraints which are imposed by the virtues upon the passions.

When we invite danger from a confidence in defensive measures, we ought, first of all, to be sure, that it is a species of danger, against which any defensive measures, that can be adopted, will be sufficient. Next we ought to know, that the spirit of our laws, or that our own dispositions, which are stronger than laws, are susceptible of all those defensive measures which the occasion may require. A third consideration is, whether these measures will not bring more odium than strength to government; and the last, whether the authority that makes

them, in a general corruption of manners and principles, can ensure their execution? Let no one argue from the state of things, as he sees them at present, concerning what will be the means and capacities of government, when the time arrives which shall call for remedies commensurate to enormous evils.

It is an obvious truth, that no constitution can defend itself: it must be defended by the wisdom and fortitude of men. These are what no constitution can give: they are the gifts of God; and he alone knows whether we shall possess such gifts at the time we stand in need of them. Constitutions furnish the civil means of getting at the natural; it is all that in this case they can do. But our constitution has more impediments than helps. Its excellencies, when they come to be put to this sort of proof, may be found among its defects.

Nothing looks more awful and imposing than an ancient fortification. Its lofty embattled walls, its bold, projecting, rounded towers that pierce the sky, strike the imagination, and promise inexpugnable strength. But they are the very things that make its weakness. You may as well think of opposing one of these old fortresses to the mass of artillery brought by a French irruption into the field, as to think of resisting by your old laws and your old forms the new destruction which the corps of jacobin engineers, of to-day, prepare for all such forms and all such laws. Besides the debility and false principle of their construction to resist the present modes of attack, the fortress itself is in ruinous repair, and there is a practicable breach in every part of it.

Such is the work. But miserable works have been defended by the constancy of the garrison. Weather-beaten ships have been brought safe to port by the spirit and alertness of the crew. But it is here that we shall eminently fail. The day, that by their consent, the seat of regicide has its place among the thrones of Europe, there is no longer a motive for zeal in their favour; it will, at best, be cold, unimpassioned, dejected, melancholy duty. The glory will seem all on the other side. The friends of the crown will appear not as champions, but as victims; discountenanced, mortified, lowered, defeated, they will fall into listlessness and indifference. They will leave things to take their course, enjoy the present hour, and submit to the common fate.

Is it only an oppressive night-mare with which we have been loaded? Is it then all a frightful dream, and are there no regicides in the world? Have we not heard of that prodigy of a ruffian, who would not suffer his benignant sovereign, with his hands tied behind him and stripped for execution, to say one

parting word to his deluded people; of Santerre, who commanded the drums and trumpets to strike up to stifle his voice, and dragged him backward to the machine of murder? This nefarious villain (for a few days I may call him so) stands high in France, as in a republic of robbers and murderers he ought. What hinders this monster from being sent as ambassador to convey to his majesty the first compliments of his brethren, the regicide directory? They have none that can represent them more properly. I anticipate the day of his arrival. He will make his public entry into London on one of the pale horses of his brewery. As he knows that we are pleased with the Paris taste for the orders of knighthood,* he will fling a bloody sash across his shoulders, with the order of the holy guillotine, surmounting the crown, appendant to the ribband. Thus adorned, he will proceed from Whitechapel to the further end of Pall-Mall, all the music of London playing the Marseillois hymn before him, and escorted by a chosen detachment of the *legion de l'Echaffaud*. It were only to be wished, that no ill-fated loyalist, for the imprudence of his zeal, may stand in the pillory at Charing-Cross, under the statue of King Charles the First, at the time of this grand procession, lest some of the rotten eggs, which the constitutional society shall let fly at his indiscreet head, may hit the virtuous murderer of his king. They might soil the state dress which the ministers of so many crowned heads have admired, and in which Sir Clement Cotterel is to introduce him at St. James's.

If Santerre cannot be spared from the constitutional butcheries at home, Tallien may supply his place, and in point of figure with advantage. He has been habituated to commissions; and he is as well qualified as Santerre for this. Nero wished the Roman people had but one neck. The wish of the more exalted Tallien, when he sat in judgment, was, that his sovereign had eighty-three heads, that he might send one to every one of the departments. Tallien will make an excellent figure at Guildhall, at the next sheriff's feast. He may open the ball with my Lady Mayoress. But this will be after he has retired from the public table, and gone into the private room for the enjoyment of more social and unreserved conversation with the ministers of state and the judges of the bench. There these ministers and magistrates will hear him entertain the worthy aldermen with an instructing and pleasing narrative of the manner in which he made the rich citizens of Bordeaux

* "*In the costume assumed by the members of the legislative body, we almost behold the revival of the extinguished insignia of knighthood,*" *&c. &c.* See A View of the relative State of Great Britain and France, at the commencement of the year 1796.

squeak, and gently led them by the public credit of the guillotine to disgorge their anti-revolutionary pelf.

All this will be the display, and the town-talk, when our regicide is on a visit of ceremony. At home nothing will equal the pomp and splendour of the *Hotel de la Republique*. There another scene of gaudy grandeur will be opened. When his citizen excellency keeps the festival, which every citizen is ordered to observe, for the glorious execution of Louis the Sixteenth, and renews his oath of detestation of kings, a grand ball, of course, will be given on the occasion. Then what a hurly burly; what a crowding; what a glare of a thousand flambeaus in the square; what a clamour of footmen contending at the door; what a rattling of a thousand coaches of duchesses, countesses, and Lady Marys, choaking the way, and overturning each other in a struggle, who should be first to pay her court to the *citoyenne*, the spouse of the twenty-first husband, he the husband of the thirty-first wife, and to hail her in the rank of honourable matrons before the four days duration of marriage is expired! Morals, as they were: decorum, the great out-guard of the sex, and the proud sentiment of honour, which makes virtue more respectable, where it is, and conceals human frailty, where virtue may not be, will be banished from this land of propriety, modesty, and reserve.

We had before an ambassador from the most christian king. We shall have then one, perhaps two, as lately, from the most anti-christian republic. His chapel will be great and splendid; formed on the model of the temple of reason at Paris, while the famous ode of the infamous *Chenier* will be sung, and a prostitute of the street adored as a goddess. We shall then have a French ambassador without a suspicion of popery. One good it will have: it will go some way in quieting the minds of that synod of zealous protestant lay elders who govern Ireland on the pacific principles of polemic theology, and who now, from dread of the pope, cannot take a cool bottle of claret, or enjoy an innocent parliamentary job with any tolerable quiet.

So far, as to the French communication here:—what will be the effect of our communication there? We know that our new brethren, whilst they every where shut up the churches, increased, in Paris at one time, at least four fold the opera houses, the play-houses, the public shows of all kinds, and, even in their state of indigence and distress, no expense was spared for their equipment and decoration. They were made an affair of state. There is no invention of seduction, never wholly wanting in that place, that has not been increased; brothels, gaming-houses,

every thing. And there is no doubt, but when they are settled in a triumphant peace they will carry all these arts to their utmost perfection, and cover them with every species of imposing magnificence. They have all along avowed them as a part of their policy; and whilst they corrupt young minds through pleasure, they form them to crimes. Every idea of corporal gratification is carried to the highest excess, and wooed with all the elegance that belongs to the senses. All elegance of mind and manners is banished. A theatrical, bombastic, windy phraseology of heroic virtue, blended and mingled up with a worse dissoluteness, and joined to a murderous and savage ferocity, forms the tone and idiom of their language and their manners. Any one who attends to all their own descriptions, narratives and dissertations, will find in that whole place, more of the air of a body of assassins, banditti, house-breakers, and outlawed smugglers, joined to that of a gang of strolling players, expelled from and exploded orderly theatres, with their prostitutes in a brothel, at their debauches and bacchanals, than any thing of the refined and perfected virtues, or the polished, mitigated vices of a great capital.

Is it for this benefit we open "the usual relations of peace and amity?" Is it for this our youth of both sexes are to form themselves by travel? Is it for this that with expense and pains we form their lisping infant accents to the language of France? I shall be told that this abominable medley is made rather to revolt young and ingenuous minds. So it is in the description. So perhaps it may be in reality to a chosen few. So it may be when the magistrate, the law, and the church, frown on such manners, and the wretches to whom they belong; when they are chaced from the eye of day, and the society of civil life, into night-cellars, and caves, and woods. But when these men themselves are the magistrates, when all the consequence, weight and authority of a great nation adopt them; when we see them conjoined with victory, glory, power and dominion, and homage paid to them by every government, it is not possible that the downhill should not be slid into, recommended by every thing which has opposed it. Let it be remembered that no young man can go to any part of Europe without taking this place of pestilential contagion in his way: and whilst the less active part of the community will be debauched by this travel; whilst children are poisoned at these schools, our trade will put the finishing hand to our ruin. No factory will be settled in France, that will not become a club of complete French jacobins. The minds of young men, of that description, will receive a taint in their religion, their morals and their politics,

which they will in a short time communicate to the whole kingdom.

Whilst every thing prepares the body to debauch, and the mind to crime, a regular church of avowed atheism, established by law, with a direct and sanguinary persecution of christianity, is formed to prevent all amendment and remorse. Conscience is formally deposed from its dominion over the mind. What fills the measure of horror is, that schools of atheism are set up at the public charge in every part of the country. That some English parents will be wicked enough to send their children to such schools there is no doubt. Better this island should be sunk to the bottom of the sea, than that (so far as human infirmity admits) it should not be a country of religion and morals.

With all these causes of corruption, we may well judge what the general fashion of mind will be through both sexes and all conditions. Such spectacles, and such examples, will overbear all the laws that ever blackened the cumbrous volumes of our statutes. When royalty shall have disavowed itself; when it shall have relaxed all the principles of its own support; when it has rendered the system of regicide fashionable, and received it as triumphant in the very persons who have consolidated that system by the perpetration of every crime, who have not only massacred the prince, but the very laws and magistrates which were the support of royalty, and slaughtered with an indiscriminate proscription, without regard to either sex or age, every person that was suspected of an inclination to king, law, or magistracy—I say, will any one dare to be loyal? Will any one presume, against both authority and opinion, to hold up this unfashionable, antiquated, exploded constitution?

The jacobin faction in England must grow in strength and audacity; it will be supported by other intrigues, and supplied by other resources than yet we have seen in action. Confounded at its growth, the government may fly to parliament for its support. But who will answer for the temper of a house of commons elected under these circumstances? Who will answer for the courage of a house of commons to arm the crown with the extraordinary powers that it may demand? But the ministers will not venture to ask half of what they know they want. They will lose half of that half in the contest: and when they have obtained their nothing, they will be driven by the cries of faction either to demolish the feeble works they have thrown up in a hurry; or, in effect, to abandon them. As to the house of lords, it is not worth mentioning. The peers

ought naturally to be the pillars of the crown: but when their titles are rendered contemptible and their property invidious, and a part of their weakness and not of their strength, they will be found so many degraded and trembling individuals, who will seek by evasion to put off the evil day of their ruin. Both houses will be in perpetual oscillation between abortive attempts at energy, and still more unsuccessful attempts at compromise. You will be impatient of your disease, and abhorrent of your remedy. A spirit of subterfuge and a tone of apology will enter into all your proceedings, whether of law or legislation. Your judges who now sustain so masculine an authority, will appear more on their trial, than the culprits they have before them. The awful frown of criminal justice will be smoothed into the silly smile of seduction. Judges will think to insinuate and sooth the accused into conviction and condemnation, and to wheedle to the gallows the most artful of all delinquents. But they will not be so wheedled. They will not submit even to the appearance of persons on their trial. Their claim to this exemption will be admitted. The place in which some of the greatest names which ever distinguished the history of this country have stood, will appear beneath their dignity. The criminal will climb from the dock to the side-bar, and take his place and his tea with the counsel. From the bar of the counsel, by a natural progress, he will ascend to the bench which long before had been virtually abandoned. They, who escape from justice, will not suffer a question upon reputation. They will take the crown of the causeway: they will be revered as martyrs; they will triumph as conquerors. Nobody will dare to censure that popular part of the tribunal, whose only restraint on mis-judgment is the censure of the public. They, who find fault with the decision, will be represented as enemies to the institution. Juries, that convict for the crown, will be loaded with obloquy. The juries, who acquit, will be held up as models of justice. If parliament orders a prosecution and fails, (as fail it will,) it will be treated to its face as guilty of a conspiracy maliciously to prosecute. Its care in discovering a conspiracy against the state will be treated as a forged plot to destroy the liberty of the subject; every such discovery, instead of strengthening government, will weaken its reputation.

In this state, things will be suffered to proceed, lest measures of vigour should precipitate a crisis. The timid will act thus from character; the wise from necessity. Our laws had done all that the old condition of things dictated to render our judges erect and independent; but they will naturally fail on the side upon which they had taken no precautions. The judicial ma-

gistrates will find themselves safe as against the crown, whose will is not their tenure; the power of executing their office will be held at the pleasure of those who deal out fame, or abuse, as they think fit. They will begin rather to consult their own repose and their own popularity, than the critical and perilous trust that is in their hands. They will speculate on consequences, when they see at court an ambassador whose robes are lined with a scarlet dyed in the blood of judges. It is no wonder, nor are they to blame, when they are to consider how they shall answer for their conduct to the criminal of to-day turned into the magistrate of to-morrow.

The press—

The army—

When thus the helm of justice is abandoned, an universal abandonment of all other posts will succeed. Government will be for a while the sport of contending factions, who, whilst they fight with one another, will all strike at her. She will be buffeted and beat forward and backward by the conflict of those billows; until at length, tumbling from the Gallic coast, the victorious tenth wave shall ride, like the bore, over all the rest, and poop the shattered, weather-beaten, leaky, water-logged vessel, and sink her to the bottom of the abyss.

Among other miserable remedies that have been found in the *materia medica* of the old college, a change of ministry will be proposed; and probably will take place. They who go out can never long with zeal and good will support government in the hands of those they hate. In a situation of fatal dependence on popularity, and without one aid from the little remaining power of the crown, it is not to be expected that they will take on them that odium which more or less attaches upon every exertion of strong power. The ministers of popularity will lose all their credit at a stroke, if they pursue any of those means necessary to give life, vigour, and consistence to government. They will be considered as venal wretches, apostates, recreant to all their own principles, acts, and declarations. They cannot preserve their credit but by betraying that authority of which they are the guardians.

To be sure, no prognosticating symptoms of these things have as yet appeared. Nothing even resembling their beginnings. May they never appear! May these prognostications of the author be justly laughed at, and speedily forgotten. If nothing as yet to cause them has discovered itself, let us consider in the author's excuse, that we have not yet seen a jacobin legation in England. The natural, declared, sworn ally of sedition, has not yet fixed its head-quarters in London.

There never was a political contest, upon better or worse grounds, that by the heat of party spirit may not ripen into civil confusion. If ever a party adverse to the crown should be in a condition here publicly to declare itself, and to divide, however unequally, the natural force of the kingdom, they are sure of an aid of fifty thousand men, at ten days warning, from the opposite coast of France. But against this infusion of a foreign force, the crown has its guarantees, old and new. But I should be glad to hear something said of the assistance which loyal subjects in France have received from other powers in support of that lawful government which secured their lawful property. I should be glad to know, if they are so disposed to a neighbourly, provident, and sympathetic attention to their public engagements, by what means they are to come at us. Is it from the powerful states of Holland we are to reclaim our guarantee? Is it from the king of Prussia and his steady good affections and his powerful navy, that we are to look for the guarantee of our security? Is it from the Netherlands, which the French may cover with the swarms of their citizen soldiers in twenty-four hours, that we are to look for this assistance? This is to suppose too that all these powers have no views offensive or necessities defensive of their own. They will cut out work for one another, and France will cut out work for them all.

That the christian religion cannot exist in this country with such a fraternity, will not, I think, be disputed with me. On that religion, according to our mode, all our laws and institutions stand as upon their base. That scheme is supposed in every transaction of life; and if that were done away, every thing else, as in France, must be changed along with it. Thus religion perishing, and with it this constitution, it is a matter of endless meditation what order of things would follow it. But what disorder would fill the space between the present and that which is to come, in the gross, is no matter of doubtful conjecture. It is a great evil, that of a civil war. But in that state of things, a civil war which would give to good men and a good cause some means of struggle, is a blessing of comparison that England will not enjoy. The moment the struggle begins, it ends. They talk of Mr. Hume's euthanasia of the British constitution, gently expiring without a groan, in the paternal arms of a mere monarchy.—In a monarchy!—fine trifling indeed—There is no such euthanasia for the British constitution—

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The manuscript copy of this letter ends here.

A LETTER

TO

THE EMPRESS OF RUSSIA.

MADAM,

The comte de Woronzow, your imperial majesty's minister, and Mr. Fawkener, have informed me of the very gracious manner in which your imperial majesty, and after your example, the archduke and archduchess, have condescended to accept my humble endeavours in the service of that cause which connects the rights and duties of sovereigns with the true interest and happiness of their people.

If, confiding in titles derived from your own goodness, I venture to address, directly to your imperial majesty, the expressions of my gratitude for so distinguished an honour, I hope it will not be thought a presumptuous intrusion. I hope, too, that the willing homage I pay to the high and ruling virtues which distinguish your imperial majesty, and which form the felicity of so large a part of the world, will not be looked upon as the language of adulation to power and greatness. In my humble situation, I can behold majesty in its splendour without being dazzled, and I am capable of respecting it in its fall.

It is, madam, from my strong sense of what is due to dignity in undeserved misfortune, that I am led to felicitate your imperial majesty on the use you have lately made of your power. The princes and nobility of France, who from honour and duty, from blood and from principle, are attached to that unhappy crown, have experienced your favour and countenance: and there is no doubt, that they will finally enjoy the full benefit of your protection. The generosity of your imperial majesty has induced you to take an interest in their cause, and your sagacity has made you perceive, that in the case of the sovereign of France, the cause of all sovereigns is tried; that in the case of its church, the cause of all churches; and that in the case of its nobility is tried the cause of all the respectable orders of all society, and even of society itself.

Your imperial majesty has sent your minister to reside where the crown of France, in this disastrous eclipse of royalty, can

alone truly and freely be represented; that is, in its royal blood, where alone the nation can be represented—that is, in its natural and inherent dignity. A throne cannot be represented by a prison. The honour of a nation cannot be represented by an assembly which disgraces and degrades it—at Coblentz only the king and the nation of France are to be found.

Your imperial majesty, who reigns and lives for glory, has nobly and wisely disdained to associate your crown with a faction which has for its object the subversion of all thrones.

You have not recognized this universal public enemy as a part of the system of Europe. You have refused to sully the lustre of your empire by any communion with a body of fanatical usurpers and tyrants, drawn out of the dregs of society, and exalted to their evil eminence by the enormity of their crimes; an assemblage of tyrants, wholly destitute of any distinguished qualification, in a single person amongst them, that can command reverence from our reason, or seduce it from our prejudices. These enemies of sovereigns, if at all acknowledged, must be acknowledged on account of that enmity alone. They have nothing else to recommend them.

Madam, it is dangerous to praise any human virtue before the accomplishment of the tasks which it imposes on itself. But in expressing my part of what I hope is, or will become, the general voice, in admiration of what you have done, I run no risk at all. With your imperial majesty, declaration and execution, beginning and conclusion, are, at their different seasons, one and the same thing.

On the faith and declaration of some of the first potentates of Europe, several thousands of persons, comprehending the best men and the best gentlemen in France, have given up their country, their houses, their fortunes, their professional situation, their all; and are now in foreign lands, struggling under the most grievous distresses. Whatever appearances may menace, nobody fears that they can be finally abandoned. Such a dereliction could not be without a strong imputation on the public and private honour of sovereignty itself, nor without an irreparable injury to its interests. It would give occasion to represent monarchs as natural enemies to each other; and that they never support or countenance any subjects of a brother prince, except when they rebel against him. We individuals, mere spectators of the scene, but who seek our liberties under the shade of legal authority, and of course sympathize with the sufferers in that cause, never can permit ourselves to believe that such an event can disgrace the history of our time. The only thing to be feared is delay; in which

are included many mischiefs. The constancy of the oppressed will be broken; the power of tyrants will be confirmed. Already the multitude of French officers, drawn from their several corps, by hopes inspired by the freely declared disposition of sovereigns, have left all the posts, in which they might one day have effectually served the good cause abandoned to the enemy.

Your imperial majesty's just influence, which is still greater than your extensive power, will animate and expedite the efforts of other sovereigns. From your wisdom other states will learn, that they who wait until all the powers of Europe are at once in motion can never move at all. It would add to the unexampled calamities of our time, if the uncommon union of sentiment in so many powers should prove the very cause of defeating the benefit which ought to flow from their general good disposition. No sovereign can run any risk from the designs of other powers, whilst engaged in this glorious and necessary work. If any attempt could be feared, your imperial majesty's power and justice would secure your allies against all danger. Madam, your glory will be compleat, if after having given peace to Europe by your moderation, you shall bestow stability on all its governments by your vigour and decision. The debt which your imperial majesty's august predecessors have contracted to the ancient manners of Europe, by means of which they civilized a vast empire, will be nobly repaid by preserving those manners from the hideous change with which they are now menaced. By the intervention of Russia the world will be preserved from barbarism and ruin.

A private individual, of a remote country, in himself wholly without importance, unauthorized and unconnected, not as an English subject, but as a citizen of the world, presumes to submit his thoughts to one of the greatest and wisest sovereigns that Europe has seen. He does it without fear, because he does not involve in his weakness (if such it is) his king, his country, or his friends. He is not afraid that he shall offend your imperial majesty; because, secure in itself, true greatness is always accessible; and because respectfully to speak what we conceive to be truth is the best homage which can be paid to true dignity.

I am, madam, with the utmost possible respect and veneration,

Your imperial majesty's
most obedient and
most humble servant,
EDM. BURKE.

Beaconsfield, November 1st, 1791.

LETTER

TO

SIR CHARLES BINGHAM, BART.

ON THE IRISH ABSENTEE TAX.*

DEAR SIR,

I AM much flattered by your very obliging letter; and the rather, because it promises an opening to our future correspondence. This may be my only indemnification for very great losses. One of the most odious parts of the proposed absentee tax is its tendency to separate friends, and to make as ugly breaches in private society as it must make in the unity of the great political body. I am sure, that much of the satisfaction of some circles in London will be lost by it. Do you think that our friend Mrs. Vesey will suffer her husband to vote for a tax that is to destroy the evenings at Bolton Row? I trust we shall have other supporters of the same sex, equally powerful, and equally deserving to be so, who will not abandon the common cause of their own liberties and our satisfactions. We shall be barbarised on both sides of the water, if we do not see one another now and then. *We* shall sink into surly, brutish Johns, and *you* will degenerate into wild Irish. It is impossible that we should be the wiser, or the more agreeable; certainly we shall not love one another the better for this forced separation, which our ministers, who have already done so much for the dissolution of every other sort of good connection, are now meditating for the further improvement of this too well united empire. Their next step will be to encourage all the colonies, about thirty separate governments, to keep their people from all intercourse with each other, and with the mother country. A gentleman of New-York or Barbadoes will be as much gazed at as a strange animal from Nova-Zembla or Otahitee; and those rogues, the travellers, will tell us what stories they please about poor old Ireland.

* From authentic documents, found with the copy of this letter among Mr. Burke's papers, it appears, that in the year 1773, a project of imposing a tax upon all proprietors of landed estates in Ireland, whose ordinary residence should be in Great Britain, had been adopted and avowed by his majesty's ministers at that time. A remonstrance against this measure, as highly unjust and impolitic, was presented to the ministers by several of the principal Irish absentees, and the project was subsequently abandoned.

In all seriousness (though I am a great deal more than half serious in what I have been saying) I look upon this projected tax in a very evil light; I think it is not advisable; I am sure it is not necessary; and as it is not a mere matter of finance, but involves a political question of much importance, I consider the principle and precedent as far worse than the thing itself. You are too kind in imagining I can suggest any thing new upon the subject. The objections to it are very glaring, and must strike the eyes of all those who have not their reasons for shutting them against evident truth. I have no feelings or opinions on this subject which I do not partake with all the sensible and informed people that I meet with. At first I could scarcely meet with any one who could believe that this scheme originated from English government. They considered it not only as absurd, but as something monstrous and unnatural. In the first instance, it strikes at the power of this country; in the end, at the union of the whole empire. I do not mean to express, most certainly I do not entertain in my mind any thing invidious concerning the superintending authority of Great-Britain. But if it be true, that the several bodies which make up this complicated mass, are to be preserved as one empire, an authority sufficient to preserve that unity, and by its equal weight and pressure to consolidate the various parts that compose it, must reside somewhere: that somewhere can only be in England. Possibly any one member, distinctly taken, might decide in favour of that residence within itself; but certainly no member would give its voice for any other except this. So that I look upon the residence of the supreme power to be settled here; not by force or tyranny, or even by mere long usage, but by the very nature of things, and the joint consent of the whole body.

If all this be admitted, then without question this country must have the sole right to the imperial legislation. By which I mean that law which regulates the polity and economy of the several parts, as they relate to one another and to the whole. But if any of the parts, which (not for oppression, but for order) are placed in a subordinate situation, will assume to themselves the power of hindering or checking the resort of their municipal subjects to the center, or even to any other part of the empire, they arrogate to themselves the imperial rights, which do not, which cannot belong to them, and, so far as in them lies, destroy the happy arrangement of the entire empire.

A free communication, by *discretionary residence*, is necessary to all the other purposes of communication. For what purpose are the Irish and plantation laws sent hither, but as means

of preserving this sovereign constitution? Whether such a constitution was originally right or wrong, this is not the time of day to dispute. If any evils arise from it, let us not strip it of what may be useful in it. By taking the English privy council into your legislature, you obtain a new, a further, and, possibly, a more liberal consideration of all your acts. If a local legislature shall, by oblique means, tend to deprive any of the people of this benefit, and shall make it penal to them to follow into England the laws which may affect them, then the English privy council will have to decide upon your acts without those lights that may enable them to judge upon what grounds you made them, or how far they ought to be modified, received, or rejected.

To what end is the ultimate appeal in judicature lodged in this kingdom, if men may be disabled from following their suits here, and may be taxed into an absolute *denial of justice?* You observe, my dear sir, that I do not assert, that, in all cases, two shillings will necessarily cut off this means of correcting legislative and judicial mistakes, and thus amount to a denial of justice. I might indeed state cases, in which this very quantum of tax would be fully sufficient to defeat this right. But I argue not on the case, but on the principle, and I am sure the principle implies it. They who may restrain, may prohibit. They who may impose two shillings, may impose ten shillings in the pound; and those who may condition the tax to six months annual absence, may carry that condition to six weeks, or even to six days, and thereby totally defeat the wise means which have been provided for extensive and impartial justice, and for orderly well-poised and well-connected government.

What is taxing the resort to and residence in any place, but declaring, that your connexion with that place is a grievance? Is not such an Irish tax, as is now proposed, a virtual declaration, that England is a foreign country, and a renunciation on your part of the principle of *common naturalization*, which runs through this whole empire.

Do you, or does any Irish gentleman think it a mean privilege, that, the moment he sets his foot upon this ground, he is to all intents and purposes an Englishman? You will not be pleased with a law which, by its operation, tends to disqualify you from a seat in this parliament; and if your own virtue or fortune, or if that of your children should carry you or them to it, should you like to be excluded from the possibility of a peerage in this kingdom? If in Ireland we lay it down as a maxim, that a residence in Great Britain is a political evil, and to be discouraged by penal taxes, you must necessarily reject

all the privileges and benefits which are connected with such a residence.

I can easily conceive, that a citizen of Dublin, who looks no further than his counter, may think that Ireland will be repaid for such a loss by any small diminution of taxes, or any increase in the circulation of money that may be laid out in the purchase of claret or groceries in his corporation. In such a man an error of that kind, as it would be natural, would be excusable. But I cannot think that any educated man, any man who looks with an enlightened eye on the interest of Ireland, can believe that it is not highly for the advantage of Ireland, that this parliament, which, whether right or wrong, whether we will or not, will make some laws to bind Ireland, should always have in it some persons, who, by connection, by property, or by early prepossessions and affections, are attached to the welfare of that country. I am so clear upon this point, not only from the clear reason of the thing, but from the constant course of my observation, by now having sat eight sessions in parliament, that I declare it to you as my sincere opinion, that (if you must do either the one or the other) it would be wiser by far, and far better for Ireland, that some new privileges should attend the estates of Irishmen, members of the two houses here, than that their characters should be stained by penal impositions, and their properties loaded by unequal and unheard-of modes of taxation. I do really trust, that when the matter comes a little to be considered, a majority of our gentlemen will never consent to establish such a principle of disqualification against themselves and their posterity, and, for the sake of gratifying the schemes of a transitory administration of the cockpit or the castle, or in compliance with the lightest part of the most vulgar and transient popularity, fix so irreparable an injury on the permanent interest of their country.

This law seems, therefore, to me, to go directly against the fundamental points of the legislative and judicial constitution of these kingdoms, and against the happy communion of their privileges. But there is another matter in the tax proposed, that contradicts as essentially a very great principle necessary for preserving the union of the various parts of a state; because it does, in effect, discountenance mutual intermarriage and inheritance; things that bind countries more closely together than any laws or constitutions whatsoever. Is it right that a woman who marries into Ireland, and perhaps well purchases her jointure or her dower there, should not, after her husband's death, have it in her choice to return to her country and her friends without being taxed for it?

If an Irish heiress should marry into an English family, and that great property in both countries should thereby come to be united in this common issue, shall the descendant of that marriage abandon his natural connection, his family interests, his public and his private duties, and be compelled to take up his residence in Ireland? Is there any sense or any justice in it, unless you affirm that there should be no such intermarriage and no such mutual inheritance between the natives? Is there a shadow of reason, that because a Lord Rockingham, a Duke of Devonshire, a Sir George Saville, possess property in Ireland, which has descended to them without any act of theirs, they should abandon their duty in parliament, and spend the winters in Dublin? or, having spent the session in Westminster, must they abandon their seats and all their family interests in Yorkshire and Derbyshire, and pass the rest of the year in Wicklow, in Cork, or Tyrone?

See what the consequence must be, from a municipal legislature considering itself as an unconnected body, and attempting to enforce a partial residence. A man may have property in more parts than two of this empire. He may have property in Jamaica and in North America, as well as in England and Ireland. I know some that have property in all of them. What shall we say to this case? After the poor distracted citizen of the whole empire has, in compliance with your partial law, removed his family, bid adieu to his connections, and settled himself quietly and snug in a pretty box by the Liffey, he hears that the parliament of Great Britain is of opinion, that all English estates ought to be spent in England, and that they will tax him double if he does not return. Suppose him then, (if the nature of the two laws will permit it) providing a flying camp, and dividing his year as well as he can, between England and Ireland, and at the charge of two town-houses and two country houses in both kingdoms; in this situation he receives an account that a law is transmitted from Jamaica, and another from Pennsylvania, to tax absentees from these provinces, which are impoverished by the European residence of the possessors of their lands. How is he to escape this *ricochet* cross-firing of so many opposite batteries of police and regulation? If he attempts to comply, he is likely to be more a citizen of the Atlantic ocean and the Irish sea, than of any of these countries. The matter is absurd and ridiculous; and while-ever the idea of mutual marriages, inheritances, purchases, and privileges subsist, can never be carried into execution with common sense or common justice.

I do not know how gentlemen of Ireland reconcile such an idea to their own liberties, or to the natural use and enjoyment of their estates. If any of their children should be left in a minority, and a guardian should think, as many do, (it matters not whether properly or no) that his ward had better be educated in a school or university here than in Ireland, is he sure that he can justify the bringing a tax of ten per cent, perhaps twenty, on his pupil's estate, by giving what, in his opinion, is the best education in general, or the best for that pupil's particular character and circumstances? Can he justify his sending him to travel, a necessary part of the higher style of education, and, notwithstanding what some narrow writers have said, of great benefit to all countries, but very particularly so to Ireland? Suppose a guardian, under the authority or pretence of such a tax of police, had prevented our dear friend, Lord Charlemont, from going abroad, would he have lost no satisfaction? Would his friends have lost nothing in the companion? Would his country have lost nothing in the cultivated taste with which he has adorned it in so many ways? His natural elegance of mind would undoubtedly do a great deal; but I will venture to assert, without the danger of being contradicted, that he adorns his present residence in Ireland much the more for having resided a long time out of it. Will Mr. Flood himself think he ought to have been driven by taxes into Ireland, whilst he prepared himself, by an English education, to understand and to defend the rights of the subject in Ireland, or to support the dignity of government there, according as his opinions, or the situation of things, may lead him to take either part, upon respectable principles? I hope it is not forgot, that an Irish act of parliament sends its youth to England for the study of the law, and compels a residence in the inns of court here for some years. Will you send out with one breath, and recal with another? This act plainly provides for that intercourse which supposes the strictest union in laws and policy, in both which the intended tax supposes an entire separation.

It would be endless to go into all the inconveniences this tax will lead to, in the conduct of private life and the use of property. How many infirm people are obliged to change their climate, whose life depends upon that change? How many families straitened in their circumstances are there, who, from the shame, sometimes from the utter impossibility otherwise of retrenching, are obliged to remove from their country, in order to preserve their estates in their families. You begin then to burthen these people precisely at the time when their circumstances of health

and fortune render them rather objects of relief and commiseration.

I know very well, that a great proportion of the money of every subordinate country will flow towards the metropolis. This is unavoidable. Other inconveniences too will result to particular parts:—and why? Why, because they are particular parts; each a member of a greater, and not an whole within itself. But those members are to consider, whether these inconveniences are not fully balanced, perhaps more than balanced, by the united strength of a great and compact body. I am sensible too of a difficulty, that will be started against the application of some of the principles which I reason upon, to the case of Ireland. It will be said, that Ireland, in many particulars, is not bound to consider itself as a part of the British body; because this country, in many instances, is mistaken enough to treat you as foreigners, and draws away your money by absentees, without suffering you to enjoy your natural advantages in trade and commerce. No man living loves restrictive regulations of any kind less than myself: at best, nine times in ten, they are little better than laborious and vexatious follies: often, as in your case, they are great oppressions, as well as great absurdities. But still an injury is not always a reason for retaliation; nor is the folly of others, with regard to us, a reason for imitating it, with regard to them. Before we attempt to retort, we ought to consider, whether we may not injure ourselves even more than our adversary; since, in the contest who shall go the greatest length in absurdity, the victor is generally the greatest sufferer. Besides, when there is an unfortunate emulation in restraints and oppressions, the question of *strength* is of the highest importance. It little becomes the feeble to be unjust. Justice is the shield of the weak; and when they choose to lay this down, and fight naked in the contest of mere power, the event will be what must be expected from such imprudence.

I ought to beg your pardon for running into this length. You want no arguments to convince you on this subject; and you want no resources of matter to convince others. I ought too to ask pardon for having delayed my answer so long; but I received your letter on Tuesday, in town, and I was obliged to come to the country on business. From the country I write at present; but this day I shall go to town again. I shall see Lord Rockingham, who has spared neither time or trouble in making a vigorous opposition to this inconsiderate measure. I hope to be able to send you the papers, which will give you information of the steps he has taken. He has pursued this business with the foresight, diligence and good sense, with which he generally resists uncon-

stitutional attempts of government. A life of disinterestedness, generosity, and public spirit, are his titles to have it believed, that the effect, which the tax may have upon his private property, is not the sole nor the principal motive to his exertions. I know he is of opinion, that the opposition in Ireland ought to be carried on with that spirit, as if no aid was expected from this country; and here, as if nothing would be done in Ireland—many things have been lost by not acting in this manner.

I am told that you are not likely to be alone in the generous stand you are to make against this unnatural monster of court popularity. It is said, Mr. Hussey, who is so very considerable at present, and who is every thing in expectation, will give you his assistance. I rejoice to see (that very rare spectacle) a good mind, a great genius, and public activity, united together, and united so early in life. By not running into every popular humour, he may depend upon it, the popularity of his character will wear the better.

Non ponebat enim rumores ante salutem;
Ergo postque magisque viri nunc gloria claret.

Adieu, my dear sir. Give my best respects to Lady Bingham; and believe, me with great truth and esteem,

Your most obedient
and most humble servant,
EDM. BURKE.

Beaconsfield,
30th October, 1773.

To Sir Cha's Bingham.

LETTER

TO THE

HONOURABLE CHARLES JAMES FOX.

MY DEAR CHARLES,

I AM, on many accounts, exceedingly pleased with your journey to Ireland. I do not think it was possible to dispose better of the interval between this and the meeting of parliament. I told you as much, in the same general terms, by the post. My opinion of the infidelity of that conveyance hindered me from being particular. I now sit down with malice prepense, to kill you with a very long letter, and must take my chance for some safe method of conveying the dose. Before I say any thing to you of the place you are in, or the business of it, on which, by the way, a great deal might be said, I will turn myself to the concluding part of your letter from Chatsworth.

You are sensible that I do not differ from you in many things; and most certainly I do not dissent from the main of your doctrine concerning the heresy of depending upon contingencies. You must recollect how uniform my sentiments have been on that subject. I have ever wished a settled plan of our own, founded in the very essence of the American business, wholly unconnected with the events of the war, and framed in such a manner as to keep up our credit, and maintain our system at home, in spite of any thing which may happen abroad. I am now convinced, by a long, and somewhat vexatious experience, that such a plan is absolutely impracticable. I think with you, that some faults in the constitution of those whom we must love and trust, are among the causes of this impracticability; they are faults too that one can hardly wish them perfectly cured of, as I am afraid they are intimately connected with honest disinterested intentions, plentiful fortunes, assured rank, and quiet homes. A great deal of activity and enterprise can scarcely ever be expected from such men, unless some horrible calamity is just over their heads; or unless they suffer some gross personal insults from power, the resentment of which may be as unquiet and stimulating a principle in their minds, as ambition is in those of a different com-

and considered a little more maturely the constant temper and standing maxims of the party, I laid aside the design; not being desirous of risking the displeasure of those for whose sake alone I wished to take that fatiguing journey at this severe season of the year.

The duke of Portland has taken with him some heads of deliberation which were the result of a discourse with his grace and Mr. Montagu at Burlington house. It seems essential to the cause, that your lordship should meet your friends with some settled plan, either of action or inaction. Your friends will certainly require such a plan, and I am sure the state of affairs requires it, whether they call for it or not. As to the measure of a secession with reasons, after rolling the matter in my head a good deal, and turning it an hundred ways, I confess I still think it the most advisable, notwithstanding the serious objections that lie against it, and, indeed, the extreme uncertainty of all political measures, especially at this time. It provides for your honour. I know of nothing else that can so well do this: It is something, perhaps all that can be done in our present situation. Some precaution, in this respect, is not without its motives. That very estimation, for which you have sacrificed every thing else, is in some danger of suffering in the general wreck; and perhaps it is likely to suffer the more, because you have hitherto confided more than was quite prudent, in the clearness of your intentions, and in the solidity of the popular judgment upon them. The former, indeed, is out of the power of events; the latter is full of levity, and the very creature of fortune. However, such as it is (and for one I do not think I am inclined to overvalue it) both our interest and our duty make it necessary for us to attend to it very carefully, so long as we act a part in public. The measure you take for this purpose may produce no immediate effect; but with regard to the party and the principles, for whose sake the party exists, all hope of their preservation or recovery depends upon your preserving your reputation.

By the conversation of some friends, it seemed as if they were willing to fall in with this design, because it promised to emancipate them from the servitude of irksome business, and to afford them an opportunity of retiring to ease and tranquillity. If that be their object in the secession and addresses proposed, there surely never were means worse chosen to gain their end; and if this be any part of the project, it were a thousand times better it were never undertaken. The measure is not only unusual and, as such, critical, but it is in its own nature strong and vehement in a high degree. The propriety,

therefore, of adopting it depends entirely upon the spirit with which it is supported and followed. To pursue violent measures with languor or irresolution is not very consistent in speculation, and not more reputable or safe in practice. If your lordship's friends do not go to this business with their whole hearts, if they do not feel themselves uneasy without it, if they do not undertake it with a certain degree of zeal, and even with warmth and indignation, it had better be removed wholly out of our thoughts. A measure of less strength, and more in the beaten circle of affairs, if supported with spirit and industry, would be, on all accounts, infinitely more eligible. We have to consider what it is that, in this undertaking, we have against us: we have the weight of king, lords, and commons, in the other scale: we have against us, within a trifle, the whole body of the law: we oppose the more considerable part of the landed and mercantile interests: we contend, in a manner, against the whole church: we set our faces against great armies, flushed with victory, and navies, who have tasted of civil spoil, and have a strong appetite for more: our strength, whatever it is, must depend for a good part of its effect upon events not very probable. In such a situation, such a step requires not only great magnanimity, but unwearied activity and perseverance, with a good deal too of dexterity and management, to improve every accident in our favour.

The delivery of this paper may have very important consequences. It is true, that the court may pass it over in silence with a real or affected contempt. But this I do not think so likely. If they do take notice of it, the mildest course will be such an address from parliament as the house of commons made to the king on the London remonstrance in the year 1769. This address will be followed by addresses of a similar tendency, from all parts of the kingdom, in order to overpower you with what they will endeavour to pass as the united voice and sense of the nation. But if they intend to proceed further, and to take steps of a more decisive nature, you are then to consider, not what they may legally and justly do, but what a parliament, omnipotent in power, influenced with party rage and personal resentment, operating under the implicit military obedience of court discipline, is capable of. Though they have made some successful experiments on juries, they will hardly trust enough to them to order a prosecution for a supposed libel. They may proceed in two ways, either by an *impeachment*, in which the tories may retort on the whigs (but with better success, though in a worse cause) the proceedings in the case of Sacheverel, or they may, without this form,

proceed, as against the bishop of Rochester, by a bill of pains and penalties more or less grievous. The similarity of the cases, or the justice, is (as I said) out of the question. The mode of proceeding has several very ancient and very recent precedents. None of these methods is impossible. The court may select three or four of the most distinguished among you for the victims; and therefore nothing is more remote from the tendency of the proposed act, than any idea of retirement or repose. On the contrary, you have all of you, as principals or auxiliaries, a much better and more desperate conflict, in all probability, to undergo, than any you have been yet engaged in. The only question is, whether the risk ought to be run for the chance (and it is no more) of recalling the people of England to their ancient principles, and to that personal interest which formerly they took in all public affairs? At any rate, I am sure it is right, if we take this step, to take it with a full view of the consequences; and with minds and measures in a state of preparation to meet them. It is not becoming, that your boldness should arise from a want of foresight. It is more reputable, and certainly it is more safe too, that it should be grounded on the evident necessity of encountering the dangers which you foresee.

Your lordship will have the goodness to excuse me, if I state, in strong terms, the difficulties attending a measure, which, on the whole, I heartily concur in. But as, from my want of importance, I can be personally little subject to the most trying part of the consequences, it is as little my desire to urge others to dangers, in which I am myself to have so inconsiderable a share.

If this measure should be thought too great for our strength, or the dispositions of the times, then the point will be to consider what is to be done in parliament. A weak, irregular, desultory, peevish opposition there will be as much too little as the other may be too big. Our scheme ought to be such as to have in it a succession of measures; else it is impossible to secure any thing like a regular attendance; opposition will otherwise always carry a disreputable air; neither will it be possible, without that attendance, to persuade the people that we are in earnest. Above all, a motion should be well digested for the first day. There is one thing, in particular, I wish to recommend to your lordship's consideration; that is, the opening of the doors of the house of commons. Without this, I am clearly convinced, it will be in the power of ministry to make our opposition appear without doors just in what light they please. To obtain a gallery is the easiest thing in the world,

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if we are satisfied to cultivate the esteem of our adversaries, by the resolution and energy with which we act against them: but if their satisfaction and good humour be any part of our object, the attempt, I admit, is idle.

I had some conversation, before I left town, with the D. of M. He is of opinion, that if you adhere to your resolution of seceding, you ought not to appear on the first day of the meeting. He thinks it can have no effect, except to break the continuity of your conduct, and thereby to weaken and fritter away the impression of it. It certainly will seem odd to give solemn reasons for a discontinuance of your attendance in parliament, after having two or three times returned to it, and immediately after a vigorous act of opposition. As to trials of the temper of the house, there have been of that sort so many already, that I see no reason for making another that would not hold equally good for another after that; particularly, as nothing has happened in the least calculated to alter the disposition of the house. If the secession were to be general, such an attendance, followed by such an act, would have force; but being, in its nature, incomplete and broken, to break it further by retreats and returns to the chase, must entirely destroy its effect. I confess, I am quite of the D. of M's opinion in this point.

I send your lordship a corrected copy of the paper; your lordship will be so good to communicate it, if you should approve of the alterations, to lord J. C. and Sir. G. S. I showed it to the D. of P. before his grace left town, and at his, the D. of P's desire, I have sent it to the D. of R. The principal alteration is in the pages last but one. It is made to remove a difficulty, which had been suggested to Sir G. S. and which he thought had a good deal in it. I think it much the better for that alteration. Indeed, it may want still more corrections, in order to adapt it to the present or probable future state of things.

What shall I say in excuse for this long letter, which frightens me when I look back upon it? Your lordship will take it, and all in it, with your usual incomparable temper, which carries you through so much both from enemies and friends. My most humble respects to lady R. and believe me, with the highest regard, ever, &c. E. B.

I hear, that Dr. Franklin has had a most extraordinary reception at Paris from all ranks of people.

Beaconsfield, Monday night.

Jan. 6. 1777.

AN

ADDRESS TO THE KING.*

We, your majesty's most dutiful and loyal subjects, several of the peers of the realm, and several members of the house of commons chosen by the people to represent them in parliament, do, in our individual capacity, but with hearts filled with a warm affection to your majesty, with a strong attachment to your royal house, and with the most unfeigned devotion to your true interest, beg leave, at this crisis of your affairs, in all humility to approach your royal presence.

Whilst we lament the measures adopted by the public councils of the kingdom, we do not mean to question the legal validity of their proceedings. We do not desire to appeal from them to any person whatsoever. We do not dispute the conclusive authority of the bodies, in which we have a place, over all their members. We know, that it is our ordinary duty to submit ourselves to the determinations of the majority, in every thing, except what regards the just defence of our honour and reputation. But the situation into which the British empire has been brought, and the conduct to which we are reluctantly driven in that situation, we hold ourselves bound by the relation, in which we stand both to the crown and the people, clearly to explain to your majesty and our country.

We have been called upon in the speech from the throne at the opening of this session of parliament, in a manner peculiarly marked, singularly emphatical, and from a place from whence any thing implying censure falls with no common weight, to concur in unanimous approbation of those measures which have produced our present distresses, and threaten us in future with others far more grievous. We trust, therefore, that we shall stand justified in offering to our sovereign and the public our reasons for persevering inflexibly in our uniform dissent from every part of those measures. We lament them from an experience of their mischief, as we originally opposed them from a sure foresight of their unhappy and inevitable tendency.

We see nothing in the present events, in the least degree, sufficient, to warrant an alteration in our opinion. We were always steadily averse to this civil war—not because we thought

* See note, p. 95.

it impossible that it should be attended with victory; but because we were fully persuaded, that in such a contest, victory would only vary the mode of our ruin; and, by making it less immediately sensible, would render it the more lasting and the more irretrievable. Experience had but too fully instructed us in the possibility of the reduction of a free people to slavery by foreign mercenary armies. But we had an horror of becoming the instruments in a design, of which, in our turn, we might become the victims. Knowing the inestimable value of peace, and the contemptible value of what was sought by war, we wished to compose the distractions of our country, not by the use of foreign arms, but by prudent regulations in our own domestic policy. We deplored, as your majesty has done in your speech from the throne, the disorders which prevail in your empire: but we are convinced, that the disorders of the people, in the present time and in the present place, are owing to the usual and natural cause of such disorders, at all times and in all places, where such have prevailed—the misconduct of government;—that they are owing to plans laid in error, pursued with obstinacy, and conducted without wisdom.

We cannot attribute so much to the power of faction, at the expense of human nature, as to suppose, that, in any part of the world, a combination of men, few in number, not considerable in rank, of no natural hereditary dependencies, should be able, by the efforts of their policy alone, or the mere exertion of any talents, to bring the people of your American dominions into the disposition which has produced the present troubles. We cannot conceive, that, without some powerful concurring cause, any management should prevail on some millions of people, dispersed over an whole continent, in thirteen provinces, not only unconnected, but in many particulars of religion, manners, government, and local interest totally different and adverse, voluntarily to submit themselves to a suspension of all the profits of industry and all the comforts of civil life, added to all the evils of an unequal war, carried on with circumstances of the greatest asperity and rigour. This, sir, we conceive, could never have happened, but from a general sense of some grievance, so radical in its nature, and so spreading in its effects, as to poison all the ordinary satisfactions of life, to discompose the frame of society, and to convert into fear and hatred, that habitual reverence ever paid by mankind to an ancient and venerable government.

That grievance is as simple in its nature, and as level to the most ordinary understanding, as it is powerful in affecting the most languid passions:—it is

"AN ATTEMPT MADE TO DISPOSE OF THE PROPERTY OF A "WHOLE PEOPLE WITHOUT THEIR CONSENT."

Your majesty's English subjects in the colonies, possessing the ordinary faculties of mankind, know, that to live under such a plan of government is not to live in a state of freedom. Your English subjects in the colonies, still impressed with the ancient feelings of the people from whom they are derived, cannot live under a government which does not establish freedom as its basis.

This scheme being therefore set up in direct opposition to the rooted and confirmed sentiments and habits of thinking of an whole people, has produced the effects which ever must result from such a collision of power and opinion. For we beg leave, with all duty and humility, to represent to your majesty, (what we fear has been industriously concealed from you) that it is not merely the opinion of a very great number or even of the majority, but the universal sense of the whole body of the people in those provinces, that the practice of taxing in the mode and on the principles which have been lately contended for and enforced, is subversive of all their rights.

This sense has been declared, as we understand on good information, by the unanimous voice of all their assemblies; each assembly also, on this point, is perfectly unanimous within itself. It has been declared as fully by the actual voice of the people without these assemblies, as by the constructive voice within them; as well by those in that country who addressed, as by those who remonstrated; and it is as much the avowed opinion of those who have hazarded their all rather than take up arms against your majesty's forces, as of those who have run the same risk to oppose them. The difference among them is, not on the grievance, but on the mode of redress; and we are sorry to say, that they who have conceived hopes from the placability of the ministers who influence the public councils of this kingdom, disappear in the multitude of those who conceive that passive compliance only confirms and emboldens oppression.

The sense of a whole people, most gracious sovereign, never ought to be contemned by wise and beneficent rulers; whatever may be the abstract claims, or even rights of *the supreme power*. We have been too early instructed, and too long habituated to believe, that the only firm seat of all authority is in the minds, affections and interests of the people, to change our opinions on the theoretic reasonings of speculative men, or for the convenience of a mere temporary arrangement of state. It is not consistent with equity or wisdom to set at defiance the general feelings of great communities and of all the orders which compose

them. Much power is tolerated and passes unquestioned where much is yielded to opinion. All is disputed where every thing is enforced.

Such are our sentiments on the duty and policy of conforming to the prejudices of a whole people, even where the foundation of such prejudices may be false or disputable. But permit us to lay at your majesty's feet our deliberate judgment on the real merits of that principle, the violation of which is the known ground and origin of these troubles. We assure your majesty, that, on our parts, we should think ourselves unjustifiable, as good citizens, and not influenced by the true spirit of Englishmen, if, with any effectual means of prevention in our hands, we were to submit to taxes, to which we did not consent, either directly, or by a representation of the people securing to us the substantial benefit of an absolutely free disposition of our own property in that important case. And we add, sir, that if fortune, instead of blessing us with a situation, where we may have daily access to the propitious presence of a gracious prince, had fixed us in settlements on the remotest part of the globe, we must carry these sentiments with us, as part of our being; persuaded, that the distance of situation would render this privilege in the disposal of property but the more necessary. If no provision had been made for it, such provision ought to be made, or permitted. Abuses of subordinate authority increase, and all means of redress lessen, as the distance of the subject removes him from the seat of the supreme power. What, in those circumstances, can save him from the last extremes of indignity and oppression, but something left in his own hands, which may enable him to conciliate the favour and controul the excesses of government? When no means of power to awe or to oblige are possessed, the strongest ties which connect mankind in every relation social and civil, and which teach them mutually to respect each other, are broken. Independency, from that moment, virtually exists. Its formal declaration will quickly follow. Such must be our feelings for ourselves; we are not in possession of another rule for our brethren.

When the late attempt practically to annihilate that inestimable privilege was made, great disorders and tumults very unhappily and very naturally arose from it. In this state of things, we were of opinion, that satisfaction ought instantly to be given; or that, at least, the punishment of the disorder ought to be attended with the redress of the grievance. We were of opinion, that, if our dependencies had so outgrown the positive institutions made for the preservation of liberty in this kingdom, that the operation of their powers was become rather a pressure than

a relief to the subjects in the colonies, wisdom dictated, that the spirit of the constitution should rather be applied to their circumstances, than its authority enforced with violence in those very parts where its reason became wholly inapplicable.

Other methods were then recommended and followed, as infallible means of restoring peace and order. We looked upon them to be, what they have since proved to be, the cause of inflaming discontent into disobedience, and resistance into revolt. The subversion of solemn, fundamental charters, on a suggestion of abuse, without citation, evidence, or hearing: the total suspension of the commerce of a great maritime city, the capital of a great maritime province, during the pleasure of the crown: the establishment of a military force not accountable to the ordinary tribunals of the country, in which it was kept up:—these and other proceedings at that time, if no previous cause of dissention had subsisted, were sufficient to produce great troubles; unjust at all times, they were then irrational.

We could not conceive, when disorders had arisen from the complaint of one violated right, that to violate every other was the proper means of quieting an exasperated people. It seemed to us absurd and preposterous, to hold out as the means of calming a people in a state of extreme inflammation, and ready to take up arms, the austere law, which a rigid conqueror would impose, as the sequel of the most decisive victories.

Recourse, indeed, was at the same time had to force; and we saw a force sent out, enough to menace liberty, but not to awe opposition; tending to bring odium on the civil power, and contempt on the military; at once to provoke and encourage resistance. Force was sent out not sufficient to hold one town: laws were passed to inflame thirteen provinces.

This mode of proceeding, by harsh laws and feeble armies, could not be defended on the principle of mercy and forbearance. For mercy, as we conceive, consists not in the weakness of the means, but in the benignity of the ends. We apprehend that mild measures may be powerfully enforced; and that acts of extreme rigour and injustice may be attended with as much feebleness in the execution, as severity in the formation.

In consequence of these terrors, which, falling upon some, threatened all, the colonies made a common cause with the sufferers; and proceeded, on their part, to acts of resistance. In that alarming situation we besought your majesty's ministers to entertain some distrust of the operation of coercive measures, and to profit of their experience. Experience had no effect. The modes of legislative rigour were construed, not to have been erroneous in their policy, but too limited in their extent. New

severities were adopted. The fisheries of your people in America followed their charters; and their mutual combination to defend what they thought their common rights, brought on a total prohibition of their mutual commercial intercourse. No distinction of persons or merits was observed—the peaceable and the mutinous, friends and foes were alike involved, as if the rigour of the laws had a certain tendency to recommend the authority of the legislator.

Whilst the penal laws increased in rigour, and extended in application over all the colonies, the direct force was applied but to one part. Had the great fleet and foreign army since employed, been at that time called for, the greatness of the preparation would have declared the magnitude of the danger. The nation would have been alarmed, and taught the necessity of some means of reconciliation with our countrymen in America, who, whenever they are provoked to resistance, demand a force to reduce them to obedience full as destructive to us as to them. But parliament and the people, by a premeditated concealment of their real situation, were drawn into perplexities, which furnished excuses for further armaments; and whilst they were taught to believe themselves called to suppress a riot, they found themselves involved in a mighty war.

At length British blood was spilled by British hands—a fatal æra, which we must ever deplore, because your empire will for ever feel it! Your majesty was touched with a sense of so great a disaster. Your paternal breast was affected with the sufferings of your English subjects in America. In your speech from the throne, in the beginning of the session of 1775, you were graciously pleased to declare yourself inclined to relieve their distresses, and to pardon their errors. You felt their sufferings under the late penal acts of parliament. But your ministry felt differently. Not discouraged by the pernicious effects of all they had hitherto advised, and notwithstanding the gracious declaration of your majesty, they obtained another act of parliament, in which the rigours of all the former were consolidated, and embittered by circumstances of additional severity and outrage. The whole trading property of America (even unoffending shipping in port) was indiscriminately and irrecoverably given, as the plunder of foreign enemies, to the sailors of your navy. This property was put out of the reach of your mercy. Your people were despoiled; and your navy, by a new, dangerous, and prolific example, corrupted with the plunder of their countrymen. Your people in that part of your dominions, were put, in their general and political, as well as their personal capacity, wholly out of the protection of your government.

Though unwilling to dwell on all the improper modes of carrying on this unnatural and ruinous war, and which have led directly to the present unhappy separation of Great Britain and its colonies, we must beg leave to represent two particulars, which we are sure must have been entirely contrary to your majesty's order or approbation. Every course of action in hostility, however that hostility may be just or merited, is not justifiable or excusable. It is the duty of those who claim to rule over others, not to provoke them beyond the necessity of the case; nor to leave stings in their minds, which must long rankle, even when the appearance of tranquillity is restored.—We therefore assure your majesty, that it is with shame and sorrow we have seen several acts of hostility, which could have no other tendency than incurably to alienate the minds of your American subjects. To excite, by a proclamation issued by your majesty's governor, an universal insurrection of negro slaves in any of the colonies, is a measure full of complicated horrors; absolutely illegal; suitable neither to the practice of war, or to the laws of peace. Of the same quality we look upon all attempts to bring down on your subjects an irruption of those fierce and cruel tribes of savages and cannibals, in whom the vestiges of human nature are nearly effaced by ignorance and barbarity. They are not fit allies for your majesty, in a war with your people. They are not fit instruments of an English government. These, and many other acts, we disclaim as having advised, or approved when done; and we clear ourselves to your majesty and to all civilized nations, from any participation whatever, before or after the fact, in such unjustifiable and horrid proceedings.

But there is one weighty circumstance which we lament equally with the causes of the war, and with the modes of carrying it on—that no disposition whatsoever towards peace or reconciliation has ever been shown by those who have directed the public councils of this kingdom, either before the breaking out of these hostilities, or during the unhappy continuance of them. Every proposition made in your parliament to remove the original cause of these troubles, by taking off taxes, obnoxious for their principle or their design, has been overruled. Every bill brought in for quiet, rejected, even on the first proposition. The petitions of the colonies have not been admitted, even to an hearing. The very possibility of public agency, by which such petitions could authentically arrive at parliament, has been evaded and chicaned away. All the public declarations which indicate any thing resembling a disposition to reconciliation, seem to us loose, general, equivocal, capable of various meanings or of none; and they are accordingly construed dif-

ferently at different times, by those on whose recommendation they have been made; being wholly unlike the precision and stability of public faith; and bearing no mark of that ingenuous simplicity, and native candour and integrity, which formerly characterized the English nation.

Instead of any relaxation of the claim of taxing at the discretion of parliament, your ministers have devised a new mode of enforcing that claim, much more effectual for the oppression of the colonies, though not for your majesty's service, both as to the quantity and application, than any of the former methods; and their mode has been expressly held out by ministers, as a plan not to be departed from by the house of commons, and as the very condition on which the legislature is to accept the dependence of the colonies.

At length, when after repeated refusals to hear or to conciliate, an act, dissolving your government, by putting your people in America out of your protection, was passed, your ministers suffered several months to elapse, without affording to them, or to any community or any individual amongst them, the means of entering into that protection, even on unconditional submission, contrary to your majesty's gracious declaration from the throne, and in direct violation of the public faith.

We cannot, therefore, agree to unite in new severities against the brethren of our blood, for their asserting an independency, to which, we know in our conscience, they have been necessitated by the conduct of those very persons, who now make use of that argument to provoke us to a continuance and repetition of the acts, which in a regular series have led to this great misfortune.

The reasons, dread sir, which have been used to justify this perseverance in a refusal to hear or conciliate, have been reduced into a sort of parliamentary maxims, which we do not approve. The first of these maxims is, "that the two houses ought not to "receive (as they have hitherto refused to receive) petitions "containing matter derogatory to any part of the authority they "claim." We conceive this maxim, and the consequent practice, to be unjustifiable by reason, or the practice of other sovereign powers, and that it must be productive, if adhered to, of a total separation between this kingdom and its dependencies. The supreme power, being in ordinary cases the ultimate judge, can, as we conceive, suffer nothing in having any part of his rights excepted to, or even discussed, before himself. We know, that sovereigns, in other countries, where the assertion of absolute regal power is as high as the assertion of absolute power in any politic body can possibly be here, have received

many petitions in direct opposition to many of their claims of prerogative; have listened to them; condescended to discuss, and to give answers to them. This refusal to admit even the discussion of any part of an undefined prerogative, will naturally tend to annihilate any privilege that can be claimed by every inferior dependent community and every subordinate order in the state.

The next maxim which has been put as a bar to any plan of accommodation, is, "that no offer of terms of peace ought to be made before parliament is assured that these terms will be accepted." On this we beg leave to represent to your majesty, that if, in all events, the policy of this kingdom is to govern the people in your colonies as a free people, no mischief can possibly happen from a declaration, to them and to the world, of the manner and form in which parliament proposes that they shall enjoy the freedom it protects. It is an encouragement to the innocent and meritorious, that they, at least, shall enjoy those advantages which they patiently expected, rather from the benignity of parliament than their own efforts. Persons more contumacious may also see that they are resisting terms of, perhaps, greater freedom and happiness than they are now in arms to obtain. The glory and propriety of offered mercy is neither tarnished or weakened by the folly of those who refuse to take advantage of it.

We cannot think that the declaration of independency makes any natural difference in the reason and policy of the offer. No prince, out of the possession of his dominions, and become a sovereign *de jure* only, ever thought it derogatory to his rights or his interest, to hold out to his former subjects a distinct prospect of the advantages to be derived from his readmission, and a security for some of the most fundamental of those popular privileges, in vindication of which he had been deposed. On the contrary, such offers have been almost uniformly made under similar circumstances. Besides, as your majesty has been graciously pleased, in your speech from the throne, to declare your intention of restoring your people in the colonies to a state of law and liberty, no objection can possibly lie against defining what that law and liberty are; because those who offer, and those who are to receive terms, frequently differ most widely and most materially in the signification of these words, and in the objects to which they apply.

To say that we do not know at this day what the grievances of the colonies are, (be they real or pretended) would be unworthy of us. But, whilst we are thus waiting to be informed

of what we perfectly know, we weaken the powers of the commissioners; we delay, perhaps we lose the happy hour of peace; we are wasting the substance of both countries; we are continuing the effusion of human, of christian, of English blood.

We are sure that we must have your majesty's heart along with us, when we declare in favour of mixing something conciliatory with our force. Sir, we abhor the idea of making a conquest of our countrymen. We wish that they may yield to well ascertained, well authenticated, and well secured terms of reconciliation; not that your majesty should owe the recovery of your dominions to their total waste and destruction. Humanity will not permit us to entertain such a desire; nor will the reverence we bear to the civil rights of mankind make us even wish that questions of great difficulty, of the last importance, and lying deep in the vital principles of the British constitution, should be solved by the arms of foreign mercenary soldiers.

It is not, sir, from a want of the most inviolable duty to your majesty, not from a want of a partial and passionate regard to that part of your empire in which we reside, and which we wish to be supreme, that we have hitherto withstood all attempts to render the supremacy of one part of your dominions inconsistent with the liberty and safety of all the rest. The motives of our opposition are found in those very sentiments which we are supposed to violate. For we are convinced, beyond a doubt, that a system of dependence, which leaves no security to the people for any part of their freedom in their own hands, cannot be established in any inferior member of the British empire, without consequentially destroying the freedom of that very body, in favour of whose boundless pretensions such a scheme is adopted. We know and feel that arbitrary power over distant regions is not within the competence, nor to be exercised agreeably to the forms, or consistently with the spirit of great popular assemblies. If such assemblies are called to a nominal share in the exercise of such power, in order to screen under general participation the guilt of desperate measures, it tends only the more deeply to corrupt the deliberative character of those assemblies, in training them to blind obedience; in habituating them to proceed upon grounds of fact, with which they can rarely be sufficiently acquainted, and in rendering them executive instruments of designs, the bottom of which they cannot possibly fathom.

To leave any real freedom to parliament, freedom must be left to the colonies. A military government is the only substitute for civil liberty. That the establishment of such a power in America will utterly ruin our finances (though its certain effect) is the smallest part of our concern. It will become an apt, powerful, and certain engine for the destruction of our freedom here. Great bodies of armed men, trained to a contempt of popular assemblies representative of an English people; kept up for the purpose of exacting impositions without their consent, and maintained by that exaction; instruments in subverting, without any process of law, great ancient establishments and respected forms of governments; set free from, and therefore above the ordinary English tribunals of the country where they serve; these men cannot so transform themselves, merely by crossing the sea, as to behold with love and reverence, and submit with profound obedience to the very same things in Great Britain, which in America they had been taught to despise, and had been accustomed to awe and humble. All your majesty's troops, in the rotation of service, will pass through this discipline, and contract these habits. If we could flatter ourselves that this would not happen, we must be the weakest of men: we must be the worst, if we were indifferent, whether it happened or not. What, gracious sovereign, is the empire of America to us, or the empire of the world, if we lose our own liberties? We deprecate this last of evils. We deprecate the effect of the doctrines, which must support and countenance the government over conquered Englishmen.

As it will be impossible long to resist the powerful and equitable arguments, in favour of the freedom of these unhappy people, that are to be drawn from the principle of our own liberty, attempts will be made, attempts have been made, to ridicule and to argue away this principle; and to inculcate into the minds of your people other maxims of government, and other grounds of obedience, than those which have prevailed at and since the glorious revolution. By degrees, these doctrines, by being convenient, may grow prevalent. The consequence is not certain; but a general change of principles rarely happens among a people, without leading to a change of government.

Sir, your throne cannot stand secure upon the principles of unconditional submission and passive obedience; on powers exercised without the concurrence of the people to be governed; on acts made in defiance of their prejudices and habits; on acquiescence procured by foreign mercenary troops, and

secured by standing armies. These may possibly be the foundation of other thrones; they must be the subversion of yours. It was not to passive principles in our ancestors that we owe the honour of appearing before a sovereign, who cannot feel that he is a prince, without knowing that we ought to be free. The revolution is a departure from the ancient course of the descent of this monarchy. The people, at that time, re-entered into their original rights; and it was not because a positive law authorized what was then done, but because the freedom and safety of the subject, the origin and cause of all laws, required a proceeding paramount and superior to them. At that ever memorable and instructive period, the letter of the law was superseded in favour of the substance of liberty. To the free choice, therefore, of the people, without either king or parliament, we owe that happy establishment, out of which both king and parliament were regenerated. From that great principle of liberty have originated the statutes, confirming and ratifying the establishment from which your majesty derives your right to rule over us. Those statutes have not given us our liberties; our liberties have produced them. Every hour of your majesty's reign your title stands upon the very same foundation on which it was at first laid; and we do not know a better on which it can possibly be placed.

Convinced, sir, that you cannot have different rights, and a different security in different parts of your dominions, we wish to lay an even platform for your throne; and to give it an unmovable stability, by laying it on the general freedom of your people; and by securing to your majesty that confidence and affection, in all parts of your dominions, which makes your best security and dearest title in this, the chief seat of your empire.

Such, sir, being, amongst us, the foundation of monarchy itself, much more clearly and much more peculiarly is it the ground of all parliamentary power. Parliament is a security, provided for the protection of freedom, and not a subtile fiction, contrived to amuse the people, in its place. The authority of both houses can, still less than that of the crown, be supported upon different principles in different places; so as to be, for one part of your subjects, a protector of liberty, and for another, a fund of despotism, through which prerogative is extended by occasional powers, whenever an arbitrary will finds itself straitened by the restrictions of law. Had it seemed good to parliament to consider itself as the indulgent guardian and strong protector of the freedom of the subordinate popular assemblies, instead of exercising its powers to their annihilation,

there is no doubt that it never could have been their inclination, because not their interest, to raise questions on the extent of parliamentary rights; or to enfeeble privileges, which were the security of their own. Powers, evident from necessity, and not suspicious from an alarming mode or purpose in the exertion, would, as formerly they were, be cheerfully submitted to; and these would have been fully sufficient for conservation of unity in the empire, and for directing its wealth to one common centre. Another use has produced other consequences; and a power, which refuses to be limited by moderation, must either be lost or find other more distinct and satisfactory limitations.

As for us, a supposed, or, if it could be, a real participation in arbitrary power, would never reconcile our minds to its establishment. We should be ashamed to stand before your majesty, boldly asserting in our own favour, inherent rights, which bind and regulate the crown itself, and yet insisting on the exercise, in our own persons, of a more arbitrary sway over our fellow citizens and fellow freemen.

These, gracious sovereign, are the sentiments which we consider ourselves as bound, in justification of our present conduct, in the most serious and solemn manner, to lay at your majesty's feet. We have been called by your majesty's writs and proclamations, and we have been authorized, either by hereditary privilege, or the choice of your people, to confer and treat with your majesty in your highest councils, upon the arduous affairs of your kingdom. We are sensible of the whole importance of the duty, which this constitutional summons implies. We know the religious punctuality of attendance, which, in the ordinary course, it demands. It is no light cause, which, even for a time, could persuade us to relax in any part of that attendance. The British empire is in convulsions, which threaten its dissolution. Those particular proceedings, which cause and inflame this disorder, after many years incessant struggle, we find ourselves wholly unable to oppose, and unwilling to behold. All our endeavours having proved fruitless, we are fearful, at this time, of irritating, by contention, those passions which we have found it impracticable to compose by reason. We cannot permit ourselves to countenance, by the appearance of a silent assent, proceedings fatal to the liberty and unity of the empire; proceedings which exhaust the strength of all your majesty's dominions, destroy all trust and dependence of our allies, and leave us, both at home and abroad, exposed to the suspicious mercy and uncertain inclinations of our neighbour and rival powers; to whom, by this desperate course,

we are driving our countrymen for protection, and with whom we have forced them into connections, and may bind them by habits and by interests; an evil, which no victories that may be obtained, no severities which may be exercised, ever will or can remove.

If but the smallest hope should, from any circumstances appear, of a return to the ancient maxims and true policy of this kingdom, we shall, with joy and readiness, return to our attendance, in order to give our hearty support to whatever means may be left for alleviating the complicated evils which oppress this nation.

If this should not happen, we have discharged our consciences by this faithful representation to your majesty and our country; and however few in number, or however we may be overborne by practices, whose operation is but too powerful, by the revival of dangerous exploded principles, or by the misguided zeal of such arbitrary factions as formerly prevailed in this kingdom, and always to its detriment and disgrace, we have the satisfaction of standing forth and recording our names in assertion of those principles whose operation hath, in better times, made your majesty a great prince, and the British dominions a mighty empire.

ADDRESS

TO THE

BRITISH COLONISTS IN NORTH AMERICA.

The very dangerous crisis into which the British empire is brought, as it accounts for, so it justifies, the unusual step we take in addressing ourselves to you.

The distempers of the state are grown to such a degree of violence and malignity, as to render all ordinary remedies vain and frivolous. In such a deplorable situation, an adherence to the common forms of business appears to us, rather as an apology to cover a supine neglect of duty, than the means of performing it in a manner adequate to the exigency that presses upon us. The common means we have already tried, and tried to no purpose. As our last resource, we turn ourselves to you. We address you merely in our private capacity, vested with no other authority, than what will naturally attend those in whose declarations of benevolence you have no reason to apprehend any mixture of dissimulation or design.

We have this title to your attention: we call upon it in a moment of the utmost importance to us all. We find, with infinite concern, that arguments are used to persuade you of the necessity of separating yourselves from your ancient connexion with your parent country, grounded on a supposition, that a general principle of alienation and enmity to you had pervaded the whole of this kingdom; and that there does no longer subsist between you and us any common and kindred principles, upon which we can possibly unite, consistently with those ideas of liberty, in which you have justly placed your whole happiness.

If this fact were true, the inference drawn from it would be irresistible. But nothing is less founded. We admit, indeed, that violent addresses have been procured with uncommon pains, by wicked and designing men, purporting to be the genuine voice of the whole people of England; that they have been published by authority here; and made known to you by proclamations; in order by despair and resentment incurably to poison your minds against the origin of your race, and to render all cordial reconciliation between us utterly impracticable. The same

wicked men, for the same bad purposes, have so far surprised the justice of parliament, as to cut off all communication betwixt us, except what is to go in their own fallacious and hostile channel.

But we conjure you, by the invaluable pledges which have hitherto united, and which we trust will hereafter lastingly unite us, that you do not suffer yourselves to be persuaded or provoked into an opinion, that you are at war with this nation. Do not think, that the whole, or even the uninfluenced majority of Englishmen in this island, are enemies to their own blood on the American continent. Much delusion has been practised; much corrupt influence treacherously employed. But still a large, and we trust the largest and soundest part of this kingdom, perseveres in the most perfect unity of sentiments, principles, and affections, with you. It spreads out a large and liberal platform of common liberty, upon which we may all unite for ever. It abhors the hostilities which have been carried on against you, as much as you, who feel the cruel effect of them. It has disclaimed, in the most solemn manner, at the foot of the throne itself, the addresses which tended to irritate your sovereign against his colonies. We are persuaded, that even many of those who unadvisedly have put their hands to such intemperate and inflammatory addresses, have not at all apprehended to what such proceedings naturally lead; and would sooner die than afford them the least countenance, if they were sensible of their fatal effects on the union and liberty of the empire.

For ourselves, we faithfully assure you, that we have ever considered you as rational creatures; as free agents; as men willing to pursue, and able to discern, your own true interest. We have wished to continue united with you, in order, that a people of one origin and one character should be directed to the rational objects of government by joint councils, and protected in them by a common force. Other subordination in you we require none. We have never pressed that argument of general union to the extinction of your local, natural, and just privileges. Sensible of what is due both to the dignity and weakness of man, we have never wished to place over you any government, over which, in great fundamental points, you should have no sort of check or controul in your own hands; or which should be repugnant to your situation, principles, and character.

No circumstances of fortune, you may be assured, will ever induce us to form, or tolerate any such design. If the disposition of providence (which we deprecate) should even prostrate you at our feet, broken in power and in spirit, it would be our duty and inclination to revive, by every practicable means, that free

energy of mind, which a fortune unsuitable to your virtue had damped and dejected; and to put you voluntarily in possession of those very privileges which you had in vain attempted to assert by arms. For we solemnly declare, that although we should look upon a separation from you as an heavy calamity (and the heavier because we know you must have your full share in it) yet we had much rather see you totally independent of this crown and kingdom, than joined to it by so unnatural a conjunction, as that of freedom with servitude:—a conjunction which, if it were at all practicable, could not fail, in the end, of being more mischievous to the peace, prosperity, greatness, and power of this nation, than beneficial, by any enlargement of the bounds of nominal empire.

But because, brethren, these professions are general, and such as even enemies may make, when they reserve to themselves the construction of what servitude and what liberty are, we inform you, that we adopt your own standard of the blessing of free government. We are of opinion, that you ought to enjoy the sole and exclusive right of freely granting, and applying to the support of your administration, what God has freely granted as a reward to your industry. And we do not confine this immunity from exterior coercion, in this great point, solely to what regards your local establishment, but also to what may be thought proper for the maintenance of the whole empire. In this resource we cheerfully trust and acquiesce; satisfied by evident reason, that no other expectation of revenue can possibly be given by freemen; and knowing from an experience, uniform both on your and on our side of the ocean, that such an expectation has never yet been disappointed. We know of no road to your coffers, but through your affections.

To manifest our sentiments the more clearly to you and to the world, on this subject; we declare our opinion, that if no revenue at all, which however we are far from supposing, were to be obtained from you to this kingdom, yet as long as it is our happiness to be joined with you in the bonds of fraternal charity and freedom, with an open and flowing commerce between us, one principle of enmity and friendship pervading, and one right of war and peace directing the strength of the whole empire, we are likely to be, at least, as powerful as any nation, or as any combination of nations, which in the course of human events may be formed against us. We are sensible that a very large proportion of the wealth and power of every empire must necessarily be thrown upon the presiding state. We are sensible that such a state ever has borne, and ever must bear the greatest part, and sometimes the whole, of the public expenses: and we

think her well indemnified for that (rather apparent than real) inequality of charge, in the dignity and pre-eminence she enjoys, and in the superior opulence, which, after all charges defrayed, must necessarily remain at the centre of affairs. Of this principle we are not without evidence in our remembrance (not yet effaced) of the glorious and happy days of this empire. We are, therefore, incapable of that prevaricating style, by which, when taxes without your consent are to be extorted from you, this nation is represented as in the lowest state of impoverishment and public distress: but when we are called upon to oppress you by force of arms, it is painted as scarcely feeling its impositions, abounding with wealth, and inexhaustible in its resources.

We also reason and feel as you do on the invasion of your charters. Because the charters comprehend the essential forms by which you enjoy your liberties, we regard them as most sacred, and by no means to be taken away or altered without process, without examination, and without hearing, as they have lately been. We even think, that they ought by no means to be altered at all, but at the desire of the greater part of the people who live under them. We cannot look upon men as delinquents in the mass; much less are we desirous of lording over our brethren, insulting their honest pride, and wantonly overturning establishments, judged to be just and convenient by the public wisdom of this nation at their institution; and which long and inveterate use has taught you to look up to with affection and reverence. As we disapproved of the proceedings with regard to the forms of your constitution, so we are equally tender of every leading principle of free government. We never could think with approbation of putting the military power out of the coercion of the civil justice in the country where it acts.

We disclaim also any sort of share in that other measure, which has been used to alienate your affections from this country, namely, the introduction of foreign mercenaries. We saw their employment with shame and regret, especially in numbers so far exceeding the English forces, as in effect to constitute vassals, who have no sense of freedom, and strangers, who have no common interest or feelings, as the arbiters of our unhappy domestic quarrel.

We likewise saw with shame the African slaves, who had been sold to you on public faith, and under the sanction of acts of parliament, to be your servants and your guards, employed to cut the throats of their masters.

You will not, we trust, believe, that born in a civilized country, formed to gentle manners, trained in a merciful religion, and living in enlightened and polished times, where even foreign

hostility is softened from its original sternness, we could have thought of letting loose upon you, our late beloved brethren, these fierce tribes of savages and cannibals, in whom the traces of human nature are effaced by ignorance and barbarity. We rather wished to have joined with you in bringing gradually that unhappy part of mankind into civility, order, piety, and virtuous discipline, than to have confirmed their evil habits, and increased their natural ferocity, by fleshing them in the slaughter of you, whom our wiser and better ancestors had sent into the wilderness, with the express view of introducing, along with our holy religion, its humane and charitable manners. We do not hold that all things are lawful in war. We should think, that every barbarity, in fire, in wasting, in murders, in tortures, and other cruelties too horrible and too full of turpitude for christian mouths to utter, or ears to hear, if done at our instigation (by those who, we know, will make war thus if they make it at all) to be, to all intents and purposes, as if done by ourselves. We clear ourselves to you our brethren, to the present age, and to future generations, to our king and our country, and to Europe, which, as a spectator beholds this tragic scene, of every part or share in adding this last and worst of evils to the inevitable mischiefs of a civil war.

We do not call you rebels and traitors. We do not call for the vengeance of the crown against you. We do not know how to qualify millions of our countrymen, contending, with one heart, for an admission to privileges which we have ever thought our own happiness and honour, by odious and unworthy names. On the contrary, we highly revere the principles on which you act, though we lament some of their effects. Armed as you are, we embrace you as our friends, and as our brethren, by the best and dearest ties of relation.

We view the establishment of the English colonies on principles of liberty, as that which is to render this kingdom venerable to future ages. In comparison of this, we regard all the victories and conquests of our warlike ancestors, or of our own times, as barbarous, vulgar distinctions, in which many nations, whom we look upon with little respect or value, have equalled, if not far exceeded us. This is the peculiar and appropriated glory of England. Those who *have and who hold* to that foundation of common liberty, whether on this or on your side of the ocean, we consider as the true and the only true Englishmen. Those who depart from it, whether there or here, are attainted, corrupted in blood, and wholly fallen from their original rank and value. They are the real rebels to the fair constitution and just supremacy of England.

We exhort you, therefore, to cleave for ever to those principles, as being the true bond of union in this empire; and to show, by a manly perseverance, that the sentiments of honour and the rights of mankind are not held by the uncertain events of war, as you have hitherto shown a glorious and affecting example to the world, that they are not dependent on the ordinary conveniences and satisfactions of life.

Knowing no other arguments to be used to men of liberal minds, it is upon these very principles, and these alone, we hope and trust, that no flattering and no alarming circumstances shall permit you to listen to the seductions of those who would alienate you from your dependance on the crown and parliament of this kingdom. That very liberty, which you so justly prize above all things, originated here; and it may be very doubtful, whether without being constantly fed from the original fountain, it can be at all perpetuated or preserved in its native purity and perfection. Untried forms of government may, to unstable minds, recommend themselves even by their novelty. But you will do well to remember, that England has been great and happy under the present limited monarchy (subsisting in more or less vigour and purity) for several hundred years. None but England can communicate to you the benefits of such a constitution. We apprehend you are not now, nor for ages are likely to be, capable of that form of constitution in an independent state. Besides, let us suggest to you our apprehensions, that your present union (in which we rejoice, and which we wish long to subsist) cannot always subsist without the authority and weight of this great and long respected body, to equipoise, and to preserve you amongst yourselves in a just and fair equality. It may not even be impossible, that a long course of war with the administration of this country, may be but a prelude to a series of wars and contentions among yourselves, to end, at length (as such scenes have too often ended) in a species of humiliating repose, which nothing but the preceding calamities would reconcile to the dispirited few who survived them. We allow, that even this evil is worth the risk to men of honour, when rational liberty is at stake, as in the present case we confess and lament that it is. But if ever a real security, by parliament, is given against the terror or the abuse of unlimited power, and after such security given, you should persevere in resistance, we leave you to consider, whether the risk is not incurred without an object; or incurred for an object infinitely diminished, by such concessions, in its importance and value.

As to other points of discussion, when these grand fundamentals of your grants and charters are once settled and ratified by clear parliamentary authority, as the ground for peace and forgiveness on our side, and for a manly and liberal obedience on yours, treaty and a spirit of reconciliation will easily and securely adjust whatever may remain. Of this we give you our word, that so far as we are at present concerned, and if by any event we should become more concerned hereafter, you may rest assured, upon the pledges of honour not forfeited, faith not violated, and uniformity of character and profession not yet broken, we at least, on these grounds, will never fail you.

Respecting your wisdom, and valuing your safety, we do not call upon you to trust your existence to your enemies. We do not advise you to an unconditional submission. With satisfaction we assure you, that almost all, in both houses (however unhappily they have been deluded, so as not to give any immediate effect to their opinion) disclaim that idea. You can have no friends, in whom you cannot rationally confide. But parliament is your friend from the moment in which, removing its confidence from those who have constantly deceived its good intentions, it adopts the sentiments of those who have made sacrifices (inferior indeed to yours) but have, however, sacrificed enough to demonstrate the sincerity of their regard and value for your liberty and prosperity.

Arguments may be used to weaken your confidence in that public security; because, from some unpleasant appearances, there is a suspicion that parliament itself is somewhat fallen from its independent spirit. How far this supposition may be founded in fact, we are unwilling to determine. But we are well assured, from experience, that even if all were true that is contended for, and in the extent too in which it is argued, yet as long as the solid and well disposed forms of this constitution remain, there ever is within parliament itself a power of renovating its principles, and effecting a self-reformation, which no other plan of government has ever contained. This constitution has therefore admitted innumerable improvements, either for the correction of the original scheme, or for removing corruptions, or for bringing its principles better to suit those changes which have successively happened in the circumstances of the nation, or in the manners of the people.

We feel that the growth of the colonies is such a change of circumstances; and that our present dispute is an exigency as pressing as any which ever demanded a revision of our government. Public troubles have often called upon this country to look into its constitution. It has ever been bettered by such

a revision. If our happy and luxuriant increase of dominion, and our diffused population, has outgrown the limits of a constitution made for a contracted object, we ought to bless God, who has furnished us with this noble occasion for displaying our skill and beneficence in enlarging the scale of rational happiness, and of making the politic generosity of this kingdom as extensive as its fortune. If we set about this great work on both sides, with the same conciliatory turn of mind, we may now, as in former times, owe even to our mutual mistakes, contentions, and animosities, the lasting concord, freedom, happiness, and glory of this empire.

Gentlemen, the distance between us, with other obstructions, has caused much misrepresentation of our mutual sentiments. We, therefore, to obviate them as well as we are able, take this method of assuring you of our thorough detestation of the whole war; and particularly the mercenary and savage war carried on, or attempted, against you; our thorough abhorrence of all addresses adverse to you, whether public or private; our assurances of an invariable affection towards you; our constant regard to your privileges and liberties; and our opinion of the solid security you ought to enjoy for them, under the paternal care and nurture of a protecting parliament.

Though many of us have earnestly wished that the authority of that august and venerable body, so necessary, in many respects, to the union of the whole, should be rather limited by its own equity and discretion, than by any bounds described by positive laws and public compacts; and though we felt the extreme difficulty, by any theoretical limitations, of qualifying that authority, so as to preserve one part and deny another; and though you (as we gratefully acknowledge) had acquiesced most cheerfully under that prudent reserve of the constitution, at that happy moment, when neither you nor we apprehended a further return of the exercise of invidious powers, we are now as fully persuaded, as you can be, by the malice, inconstancy, and perverse inquietude of many men, and by the incessant endeavours of an arbitrary faction, now too powerful, that our common necessities do require a full explanation and ratified security for your liberties and our quiet.

Although his majesty's condescension in committing the direction of his affairs into the hands of the known friends of his family, and of the liberties of all his people, would, we admit, be a great means of giving repose to your minds, as it must give infinite facility to reconciliation, yet we assure you, that we think, with such a security as we recommend, adopted from necessity and not choice, even by the unhappy authors

and instruments of the public misfortunes, that the terms of reconciliation, if once accepted by parliament, would not be broken. We also pledge ourselves to you, that we should give even to those unhappy persons an hearty support in effectuating the peace of the empire; and every opposition in an attempt to cast it again into disorder.

When that happy hour shall arrive, let us in all affection recommend to you the wisdom of continuing, as in former times, or even in a more ample measure, the support of your government, and even to give to your administration some degree of reciprocal interest in your freedom. We earnestly wish you not to furnish your enemies here, or elsewhere, with any sort of pretexts for reviving quarrels, by too reserved and severe, or penurious an exercise of those sacred rights, which no pretended abuse in the exercise ought to impair, nor, by overstraining the principles of freedom, to make them less compatible with those haughty sentiments in others, which the very same principles may be apt to breed in minds not tempered with the utmost equity and justice.

The well wishers of the liberty and union of this empire salute you, and recommend you most heartily to the divine protection.

A LETTER

TO

THE RIGHT HON. EDMUND PERRY.*

MY DEAR SIR,

I RECEIVED, in due course, your two very interesting and judicious letters, which gave me many new lights, and excited me to fresh activity in the important subject they related to. However, from that time, I have not been perfectly free from doubt and uneasiness. I used a liberty with those letters, which perhaps nothing can thoroughly justify, and which certainly nothing but the delicacy of the crisis, the clearness of my intentions, and your great good nature can at all excuse. I might conceal this from you; but I think it better to lay the whole matter before you, and submit myself to your mercy; assuring you, at the same time, that if you are so kind as to continue your confidence on this, or to renew it upon any other occasion, I shall never be tempted again to make so bold and unauthorized an use of the trust you place in me. I will state to you the history of the business since my last; and then you will see how far I am excusable by the circumstances.

On the 3d of July, I received a letter from the attorney general, dated the day before, in which, in a very open and obliging manner, he desires my thoughts of the Irish toleration bill, and particularly of the dissenters' clause. I gave them to him, by the return of the post, at large; but as the time pressed, I kept no copy of the letter; the general drift was strongly to recommend the *whole;* and principally to obviate the objections to the part that related to the dissenters, with re-

* This letter is addressed to Mr. Perry (afterwards Lord Perry) then speaker of the house of commons of Ireland. It appears there had been much correspondence between that gentleman and Mr. Burke, on the subject of heads of a bill (which had passed the Irish house of commons in the summer of the year 1778, and had been transmitted by the Irish privy council of England) for the relief of His Majesty's Roman Catholic subjects in Ireland. The bill contained a clause for exempting the protestant dissenters of Ireland from the sacramental test, which created a strong objection to the whole measure, on the part of the English government. Mr. Burke employed his most strenuous efforts to remove the prejudice which the king's ministers entertained against the clause, but the bill was ultimately returned without it, and in that shape passed the Irish parliament. (17th and 18th Geo. III. cap. 49.) In the subsequent session, however, a separate act was passed for the relief of the protestant dissenters of Ireland.

gard both to the general propriety, and to the temporary policy at this juncture. I took likewise a good deal of pains to state the difference which had always subsisted with regard to the treatment of the protestant dissenters in Ireland and in England; and what I conceived the reason of that difference to be. About the same time I was called to town for a day; and I took an opportunity, in Westminster hall, of urging the same points, with all the force I was master of, to the solicitor general. I attempted to see the chancellor, for the same purpose; but was not fortunate enough to meet him at home. Soon after my return hither, on Tuesday, I received a very polite, and I may say friendly letter from him, wishing me (on supposition that I had continued in town) to dine with him at that day, in order to talk over the business of the toleration act then before him. Unluckily I had company with me, and was not able to leave them until Thursday; when I went to town, and called at his house, but missed him. However, in answer to his letter, I had before, and instantly on the receipt of it, written to him at large; and urged such topics, both with regard to the catholics and dissenters, as I imagined were the most likely to be prevalent with him. This letter I followed to town on Thursday. On my arrival I was much alarmed with a report, that the ministry had thoughts of rejecting the whole bill. Mr. M'Namara seemed apprehensive that it was a determined measure; and there seemed to be but too much reason for his fears. Not having met the chancellor at home, either on my first visit or my second, after receiving his letter, and fearful that the cabinet should come to some unpleasant resolution, I went to the treasury on Friday. There I saw Sir G. Cooper. I possessed him of the danger of a partial, and the inevitable mischief of the total rejection of the bill. I reminded him of the understood compact between parties, upon which the whole scheme of the toleration, originating in the English bill, was formed; of the fair part, which the whigs had acted in a business, which, though first started by them, was supposed equally acceptable to all sides; and the risk of which they took upon themselves when others declined it. To this I added such matter as I thought most fit to engage government, as government; not to sport with a singular opportunity, which offered, for the union of every description of men amongst us in support of the common interest of the whole; and I ended by desiring to see Lord North upon the subject. Sir Grey Cooper showed a very right sense of the matter; and, in a few minutes after our conversation, I went down from the treasury chambers to Lord North's house. I had a great deal of discourse

with him. He told me that his ideas of toleration were large; but that, large as they were, they did not comprehend a promiscuous establishment, even in matters merely civil: that he thought the established religion ought to be the religion of the state: that, in this idea, he was not for the repeal of the sacramental test: that indeed he knew the dissenters in general did not greatly scruple it: but that very want of scruple showed less zeal against the establishment; and, after all, there could no provision be made by human laws against those who made light of the tests, which were formed to discriminate opinions. On all this he spoke with a good deal of temper. He did not, indeed, seem to think the test itself, which was rightly considered by dissenters as in a manner dispensed with by an annual act of parliament, and which in Ireland was of a late origin and of much less extent than here, a matter of much moment. The thing which seemed to affect him most was the offence that would be taken at the repeal by the leaders among the church clergy here, on one hand, and on the other the steps which would be taken for its repeal in England in the next session, in consequence of the repeal in Ireland. I assured him with great truth, that we had no idea, among the whigs, of moving the repeal of the test. I confessed very freely, for my own part, that if it were brought in, I should certainly vote for it. But that I should neither use, nor did I think applicable, any arguments drawn from the analogy of what was done in other parts of the British dominions. We did not argue from analogy, even in this island and united kingdom. Presbytery was established in Scotland. It became no reason either for its religious or civil establishment here. In New-England, the independent congregational churches had an established legal maintenance; whilst that country continued part of the British empire, no argument in favour of independency was adduced from the practice of New-England. Government itself lately thought fit to establish the Roman catholic religion in Canada; but they would not suffer an argument of analogy to be used for its establishment any where else. These things were governed, as all things of that nature are governed, not by general maxims, but their own local and peculiar circumstances. Finding, however, that, though he was very cool and patient, I made no great way in the business of the dissenters, I turned myself to try whether, falling in with his maxims, some modification might not be found, the hint of which I received from your letter relative to the Irish militia bill, and the point I laboured, was so to alter the clause as to repeal the test *quo ad* military and revenue officers. For these being only subservient parts in the economy and execution, rather than the

administration of affairs, the politic, civil, and judicial parts would still continue in the hands of the conformists to religious establishments: without giving any hopes, he however said, that this distinction deserved to be considered.

After this, I strongly pressed the mischief of rejecting the whole bill:—that a notion went abroad, that government was not at this moment very well pleased with the dissenters, as not very well affected to the monarchy:—that, in general, I conceived this to be a mistake:—but if it were not, the rejection of a bill in favour *of others*, because something in favour *of them* was inserted, instead of humbling and mortifying, would infinitely exalt them. For if the legislature had no means of favouring those whom they meant to favour, as long as the dissenters could find means to get themselves included, this would make them, instead of their only being subject to restraint themselves, the arbitrators of the fate of others, and that, not so much by their own strength (which could not be prevented in its operation) as by the co-operation of those whom they opposed. In the conclusion, I recommended, that if they wished well to the measure, which was the main object of the bill, they must explicitly make it their own, and stake themselves upon it; that hitherto all their difficulties had arisen from their indecision, and their wrong measures; and, to make Lord North sensible of the necessity of giving a firm support to some part of the bill, and to add weighty authority to my reasons, I read him your letter of the 10th of July. It seemed, in some measure, to answer the purpose which I intended. I pressed the necessity of the management of the affair, both as to conduct and as to gaining of men; and I renewed my former advice, that the lord lieutenant should be instructed to consult and co-operate with you in the whole affair. All this was apparently very fairly taken.

In the evening of that day I saw the lord chancellor. With him, too, I had much discourse. You know that he is intelligent, sagacious, systematic, and determined. At first he seemed of opinion, that the relief contained in the bill was so inadequate to the mass of oppression it was intended to remove, that it would be better to let it stand over, until a more perfect and better digested plan could be settled. This seemed to possess him very strongly. In order to combat this notion, and to show that the bill, all things considered, was a very great acquisition, and that it was rather a preliminary than an obstruction to relief, I ventured to show him your letter. It had its effect. He declared himself roundly against giving any thing to a confederacy, real or apparent, to distress government: that if any thing was done for catholics or dissenters, it should be done

on its own separate merits, and not by way of bargain and compromise: that they should be each of them obliged to government, not each to the other: that this would be a perpetual nursery of faction. In a word, he seemed so determined on not uniting these plans, that all I could say, and I said every thing I could think of, was to no purpose. But when I insisted on the disgrace to government, which must arise from their rejecting a proposition recommended by themselves, because their opposers had made a mixture, separable too by themselves, I was better heard. On the whole, I found him well disposed.

As soon as I had returned to the country, this affair lay so much on my mind, and the absolute necessity of government's making a serious business of it, agreeably to the seriousness they professed, and the object required, that I wrote to Sir G. Cooper, to remind him of the principles upon which we went in our conversation, and to press the plan, which was suggested for carrying them into execution. He wrote to me on the 20th, and assured me "that Lord North had given all due attention and respect "to what you said to him on Friday, and will pay the same re-"spect to the sentiments conveyed in your letter; every thing "you say or write on the subject undoubtedly demands it." Whether this was mere civility, or showed any thing effectual in their intentions, time and the success of this measure will show. It is wholly with them; and if it should fail, you are a witness, that nothing on our part has been wanting to free so large a part of our fellow-subjects and fellow-citizens from slavery; and to free government from the weakness and danger of ruling them by force. As to my own particular part, the desire of doing this has betrayed me into a step, which I cannot perfectly reconcile to myself. You are to judge how far, on the circumstances, it may be excused. I think it had a good effect. You may be assured, that I made this communication in a manner effectually to exclude so false and groundless an idea, as that I confer with you, any more than I confer with them, on any party principle whatsoever; or that in this affair we look further than the measure, which is in profession, and, I am sure, ought to be in reason, theirs. I am ever, with the sincerest affection and esteem,

My dear sir, your most faithful
and obedient humble servant,
EDMUND BURKE.

Beaconsfield,
18th July, 1778.

I intended to have written sooner, but it has not been in my power.

To the speaker of the
house of commons in Ireland.

A LETTER

TO

THOMAS BURGH, ESQ.*

MY DEAR SIR,

I DO not know in what manner I am to thank you properly for the very friendly solicitude you have been so good as to express for my reputation. The concern you have done me the honour to take in my affairs, will be an ample indemnity from all that I may suffer from the rapid judgments of those who choose to form their opinions of men, not from the life, but from their portraits in a newspaper. I confess to you, that my frame of mind is so constructed, I have in me so little of the constitution of a great man, that I am more gratified with a very moderate share of approbation from those few who know me, than I should be with the most clamorous applause from those multitudes who love to admire at a due distance.

I am not, however, stoic enough to be able to affirm with truth, or hypocrite enough affectedly to pretend, that I am wholly unmoved at the difficulty which you, and others of my friends in Ireland, have found in vindicating my conduct towards my native country. It undoubtedly hurts me in some degree; but the wound is not very deep. If I had sought popularity in Ireland, when, in the cause of that country, I was ready to sacrifice, and did sacrifice, a much nearer, a much more immediate, and a much more advantageous popularity here, I should find myself perfectly unhappy; because I should be totally disappointed in my expectations; because I should discover, when it was too late, what common sense might have told me very early, that I risked the capital of my fame in the most disadvantageous lottery in the world. But I acted then, as I act now, and as I hope I shall act always, from a strong impulse of right, and from motives, in which popularity, either here or there, has but a very little part.

* Mr. Thomas Burgh, of *Old Town*, was a member of the house of commons in Ireland.

It appears from a letter written by this gentleman to Mr. Burke, 24th December, 1778, and to which the following is an answer, that the part Mr. Burke had taken in the discussion which the affairs of Ireland had undergone in the preceding sessions of parliament in England, had been grossly misrepresented, and much censured in Ireland.

With the support of that consciousness, I can bear a good deal of the coquetry of public opinion, which has her caprices, and must have her way—*Miseri, quibus intentata nitet!* I too have had my holiday of popularity in Ireland. I have even heard of an intention to erect a statue.* I believe my intimate acquaintance know how little that idea was encouraged by me; and I was sincerely glad that it never took effect. Such honours belong exclusively to the tomb—the natural and only period of human inconstancy, with regard either to desert or to opinion: for they are the very same hands which erect that very frequently (and sometimes with reason enough) pluck down the statue. Had such an unmerited and unlooked-for compliment been paid to me two years ago, the fragments of the piece might, at this hour, have the advantage of seeing actual service, while they were moving, according to the law of projectiles, to the windows of the attorney general, or of my old friend Monk Mason.

To speak seriously—let me assure you, my dear sir, that though I am not permitted to rejoice at *all* its effects, there is not one man on your side of the water more pleased to see the situation of Ireland so prosperous, as that she can afford to throw away her friends. She has obtained solely by her own efforts, the fruits of a great victory; which, I am very ready to allow, that the best efforts of her best well-wishers here could not have done for her so effectually in a great number of years; and, perhaps, could not have done at all. I could wish, however, merely for the sake of her own dignity, that in turning her poor relations and antiquated friends out of doors (though one of the most common effects of new prosperity) she had thought proper to dismiss us with fewer tokens of unkindness. It is true, that there is no sort of danger in affronting men who are not of importance enough to have any trust of ministerial, of royal, or of national honour to surrender. The unforced and unbought services of humble men, who have no medium of influence in great assemblies, but through the precarious force of reason, must be looked upon with contempt by those who, by their wisdom and spirit, have improved the critical moment of their fortune, and have debated with authority, against pusillanimous dissent and ungracious compliance, at the head of 40,000 men.

Such feeble auxiliaries (as I talk of) to such a force, employed against such resistance, I must own, in the present moment, very little worthy of your attention. Yet, if one were

* This intention was communicated to Mr Burke, in a letter from Mr. Perry, the speaker of the house of commons in Ireland.

to look forward, it scarcely seems altogether politic to bestow so much liberality of invective on the whigs of this kingdom, as I find has been the fashion to do, both in and out of parliament. That you should pay compliments, in some tone or other, whether ironical or serious, to the minister, from whose imbecility you have extorted what you could never obtain from his bounty, is not unnatural. In the first effusions of parliamentary gratitude to that minister, for the early and voluntary benefits he has conferred upon Ireland, it might appear that you were wanting to the triumph of his surrender, if you did not lead some of his enemies captive before him. Neither could you feast him with decorum, if his particular taste were not consulted. A minister, who has never defended his measures in any other way than by railing at his adversaries, cannot have his palate made all at once to the relish of positive commendation. I cannot deny, but that on this occasion there was displayed a great deal of the good breeding which consists in the accommodation of the entertainment to the relish of the guest.

But that ceremony being past, it would not be unworthy of the wisdom of Ireland, to consider what consequences the extinguishing every spark of freedom in this country may have upon your own liberties. You are at this instant flushed with victory, and full of the confidence natural to recent and untried power. We are in a temper equally natural, though very different. We feel as men do, who, having placed an unbounded reliance on their force, have found it totally to fail on trial. We feel faint and heartless, and without the smallest degree of self opinion. In plain words, we are *cowed*. When men give up their violence and injustice without a struggle, their condition is next to desperate. When no art, no management, no argument is necessary to abate their pride and overcome their prejudices, and their uneasiness only excites an obscure and feeble rattling in their throat, their final dissolution seems not far off. In this miserable state we are still further depressed by the overbearing influence of the crown. It acts with the officious cruelty of a mercenary nurse, who, under pretence of tenderness, stifles us with our clothes, and plucks the pillow from our heads. *Injectu multæ vestis opprimi senem jubet.* Under this influence, we have so little will of our own, that, even in any apparent activity, we may be got to assume, I may say, without any violence to sense, and with very little to language, we are merely passive. We have yielded to your demands this session. In the last session we refused to prevent them. In both cases, the passive and the active, our principle

was the same. Had the crown pleased to retain the spirit with regard to Ireland, which seems to be now all directed to America, we should have neglected our own immediate defence, and sent over the last man of our militia, to fight with the last man of your volunteers.

To this influence, the principle of action, the principle of policy, and the principle of union of the present minority are opposed. These principles of the opposition are the only thing which preserves a single symptom of life in the nation. That opposition is composed of the far greater part of the independent property and independent rank of the kingdom; of whatever is most untainted in character, and of whatever ability remains unextinguished in the people, and of all which tends to draw the attention of foreign countries upon this. It is now in its final and conclusive struggle. It has to struggle against a force, to which, I am afraid, it is not equal. The *whole* kingdom of Scotland ranges with the venal, the unprincipled, and the wrong-principled of this; and if the kingdom of Ireland thinks proper to pass into the same camp, we shall certainly be obliged to quit the field. In that case, if I know any thing of this country, another constitutional opposition *can never* be formed in it; and if this be impossible, it will be at least as much so (if there can be degrees in impossibility) to have a constitutional administration at any future time. The possibility of the former is the only security for the existence of the latter. Whether the present administration be in the least like one, I must venture to doubt, even in the honey moon of the Irish fondness to Lord North, which has succeeded to all their slappings and scratchings.

If liberty cannot maintain its ground in this kingdom, I am sure that it cannot have any long continuance in yours. Our liberty might now and then jar, and strike a discord with that of Ireland. The thing is possible, but still the instruments might play in concert. But if ours be unstrung, yours will be hung up on a peg; and both will be mute forever. Your new military force may give you confidence, and it serves well for a turn; but you and I know that it has not root. It is not perennial, and would prove but a poor shelter for your liberty, when this nation, having no interest in its own, could look upon yours with the eye of envy and disgust. I cannot, therefore, help thinking and telling you what, with great submission, I think, that if the parliament of Ireland be so jealous of the spirit of our common constitution, as she seems to be, it was not so discreet to mix with the panegyric on the minister so large a portion of acrimony to the independent part of this na-

tion. You never received any sort of injury from them, and you are grown to that degree of importance, that the discourses in your parliament will have a much greater effect on our immediate fortune, than our conversation can have upon yours. In the end they will seriously affect both.

I have looked back upon our conduct and our public conversations, in order to discover, what it is that can have given you offence. I have done so, because I am ready to admit that to offend you without any cause, would be as contrary to true policy, as I am sure it must be to the inclinations of almost every one of us. About two years ago Lord Nugent moved six propositions in favour of Ireland, in the house of commons. At the time of the motions, and during the debate, Lord North was either wholly out of the house, or engaged in other matters, of business or pleasantry, in the remotest recesses of the West Saxon corner. He took no part whatsoever in the affair; but it was supposed his neutrality was more inclined towards the side of favour. The mover being a person in office, was, however, the only indication that was given of such a leaning. We, who supported the propositions, finding them better relished than at first we looked for, pursued our advantage, and began to open a way for more essential benefits to Ireland. On the other hand, those, who had hitherto opposed them in vain, redoubled their efforts, and became exceedingly clamorous. Then it was, that Lord North found it necessary to come out of his fastness, and to interpose between the contending parties. In this character of mediator, he declared, that, if any thing beyond the first six resolutions should be attempted, he would oppose the whole; but that, if we rested there, the original motions should have his support. On this, a sort of convention took place between him and the managers of the Irish business, in which the six resolutions were to be considered as an *uti posseditis*, and to be held sacred.

By this time other parties began to appear. A good many of the trading towns, and manufactures of various kinds, took the alarm. Petitions crowded in upon one another; and the bar was occupied by a formidable body of council. Lord N. was staggered by this new battery. He is not of a constitution to encounter such an opposition as had then risen, when there were no other objects in view than those that were then before the house. In order not to lose him, we were obliged to abandon, bit by bit, the most considerable part of the original agreement.

In several parts, however, he continued fair and firm. For my own part, I acted, as I trust I commonly do, with decision.

I saw very well, that the things we had got were of no great consideration; but they were, even in their defects, somewhat leading. I was in hopes, that we might obtain gradually, and by parts, what we might attempt at once and in the whole without success; that one concession would lead to another; and that the people of England, discovering, by a progressive experience, that none of the concessions, actually made, were followed by the consequences they had dreaded, their fears, from what they were yet to yield, would considerably diminish. But that to which I attached myself the most particularly, was to fix *the principle* of a free trade in all the ports of these islands, as founded in justice, and beneficial to the whole; but principally to this, the seat of the supreme power. And this I laboured to the utmost of my might, upon general principles, illustrated by all the commercial detail with which my little inquiries in life were able to furnish me. I ought to forget such trifling things as those, with all concerning myself; and possibly I might have forgotten them, if the lord advocate of Scotland had not, in a very flattering manner, revived them in my memory in a full house in this session. He told me that my arguments, such as they were, had made him, at the period I allude to, change the opinion with which he had come into the house strongly impressed. I am sure, that, at the time, at least twenty more told me the same thing. I certainly ought not to take their stile of compliment as a testimony to fact; neither do I. But all this showed sufficiently, not what they thought of my ability, but what they saw of my zeal. I could say more in proof of the effects of that zeal, and of the unceasing industry with which I then acted, both in my endeavours which were apparent, and those that were not so visible. Let it be remembered, that I showed those dispositions, while the parliament of England was in a capacity to deliberate, and in a situation to refuse; when there was something to be risked here, by being suspected of a partiality to Ireland; when there was an honourable danger attending the profession of friendship to you, which heightened its relish, and made it worthy of a reception in manly minds. But as for the awkward and nauseous parade of debate without opposition, the flimsy devise of tricking out necessity, and disguising it in the habit of choice, the shallow stratagem of defending, by argument, what all the world must perceive is yielded to force—these are a sort of acts of friendship, which I am sorry that any of my countrymen should require of their real friends. They are things not *to my taste;* and if they are looked upon as tests of friendship, I desire for one that I may be considered as an enemy.

What party purpose did my conduct answer at that time? I acted with Lord N. I went to all the ministerial meetings—and he and his associates in office will do me the justice to say, that aiming at the concord of the empire, I made it my business to give his concessions all the value of which they were capable—whilst some of those, who were covered with his favours, derogated from them, treated them with contempt, and openly threatened to oppose them. If I had acted with my dearest and most valued friends—if I had acted with the marquis of Rockingham, or the duke of Richmond in that situation, I could not have attended more to their honour, or endeavoured more earnestly to give efficacy to the measures I had taken in common with them. The return which I, and all who acted as I did, have met with from him, does not make me repent the conduct which I then held.

As to the rest of the gentlemen, with whom I have the honour to act, they did not then, or at any other time, make a party affair of Irish politics. That matter was always taken up without concert; but, in general, from the operation of our known liberal principles, in government, in commerce, in religion, in every thing, it was taken up favourably for Ireland. Where some local interests bore hard upon the members, they acted on the sense of their constituents, upon ideas, which though I do not always follow, I cannot blame. However, two or three persons, high in opposition, and high in public esteem, ran great risks in their boroughs on that occasion. But all this was without any particular plan. I need not say, that Ireland was in that affair much obliged to the liberal mind and enlarged understanding of Charles Fox, to Mr. Thomas Townshend, to Lord Middleton, and others. On reviewing that affair, which gave rise to all the subsequent manœuvres, I am convinced, that the whole of what has this day been done, might have then been effected. But then the minister must have taken it up as a great plan of national policy, and paid with his person in every lodgement of his approach. He must have used that influence to quiet prejudice, which he has so often used to corrupt principle: and I know, that if he had, he must have succeeded. Many of the most active in opposition would have given him an unequivocal support. The corporation of London and the great body of the London West India merchants and planters, which forms the greatest mass of that vast interest, were disposed to fall in with such a plan. They certainly gave no sort of discountenance to what was done or what was proposed. But these are not the kind of objects, for which our ministers bring out the heavy artillery of the state. Therefore, as things stood at that time, a great deal more was not practicable.

Last year another proposition was brought out for the relief of Ireland. It was started without any communication with a single person of activity in the country party; and, as it should seem, without any kind of concert with government. It appeared to me extremely raw and undigested. The behaviour of Lord N. on the opening of that business, was the exact transcript of his conduct on the Irish question in the former session. It was a mode of proceeding, which his nature has wrought into the texture of his politics, and which is inseparable from them. He chose to absent himself on the proposition and during the agitation of that business; although the business of the house is that alone, for which he has any kind of relish, or, as I am told, can be persuaded to listen to with any degree of attention. But he was willing to let it take its course. If it should pass without any considerable difficulty, he would bring his acquiescence to tell for merit in Ireland, and he would have the credit, out of his indolence, of giving quiet to that country. If difficulties should arise on the part of England, he knew, that the house was so well trained, that he might, at his pleasure, call us off from the hottest scent. As he acted in his usual manner and upon his usual principle, opposition acted upon theirs, and rather generally supported the measure. As to myself, I expressed a disapprobation at the practice of bringing imperfect and indigested projects into the house, before means were used to quiet the clamours, which a misconception of what we are doing might occasion at home; and before measures were settled with men of weight and authority in Ireland, in order to render our acts useful and acceptable to that country. I said, that the only thing, which could make the influence of the crown (enormous without as well as within the house) in any degree tolerable, was, that it might be employed to give something of order and system to the proceedings of a popular assembly; that government being so situated, as to have a large range of prospect, and as it were, a bird's view of every thing, they might see distant dangers and distant advantages, which were not so visible to those who stood on the common level; they might, besides, observe them, from this advantage, in their relative and combined state; which people, locally instructed and partially informed, could behold only in an insulated and unconnected manner:—but that for many years past we suffered under all the evils, without any one of the advantages of a government influence:—that the business of a minister, or of those who acted as such, had been still further to contract the narrowness of men's ideas; to confirm inveterate prejudices; to inflame vulgar passions, and to abet all sorts of popular absurdities, in

order the better to destroy popular rights and privileges:—that so far from methodizing the business of the house, they had let all things run into an inextricable confusion; and had left affairs of the most delicate policy, wholly to chance.

After I had expressed myself with the warmth I felt on seeing all government and order buried under the ruins of liberty, and after I had made my protest against the insufficiency of the propositions, I supported the principle of enlargement, at which they aimed, though short and somewhat wide of the mark; giving as my sole reason, that the more frequently these matters came into discussion, the more it would tend to dispel fears and to eradicate prejudices.

This was the only part I took. The detail was in the hands of Lord Newhaven and Lord Beauchamp, with some assistance from Earl Nugent and some independent gentlemen of Irish property. The dead weight of the minister being removed, the house recovered its tone and elasticity. We had a temporary appearance of a deliberative character. The business was debated freely on both sides, and with sufficient temper. And the sense of the members being influenced by nothing but what will naturally influence men unbought, their reason and their prejudices, these two principles had a fair conflict, and prejudice was obliged to give way to reason. A majority appeared, on a division, in favour of the propositions.

As these proceedings got out of doors, Glasgow and Manchester, and, I think, Liverpool, began to move, but in a manner much more slow and languid than formerly. Nothing, in my opinion, would have been less difficult than entirely to have overborne their opposition. The London West India trade, was, as on the former occasion, so on this, perfectly liberal, and perfectly quiet; and there is abroad so much respect for the united wisdom of the house, when supposed to act upon a fair view of a political situation, that I scarcely ever remember any considerable uneasiness out of doors, when the most active members, and those of most property and consideration in the minority, have joined themselves to the administration. Many factious people in the towns I mentioned, began, indeed, to revile Lord North, and to reproach his neutrality, as treacherous and ungrateful to those who had so heartily and so warmly entered into all his views with regard to America. That noble lord, whose decided character it is to give way to the latest and nearest pressure, without any sort of regard to distant consequences of any kind, thought fit to appear, on this signification of the pleasure of those his worthy friends and partizans, and putting himself at the head of the *Posse Scaccarii*, wholly regardless of the dignity and consistency of our

miserable house, drove the propositions entirely out of doors, by a majority newly summoned to duty.

In order to atone to Ireland for this gratification to Manchester, he graciously permitted, or rather forwarded two bills; that for encouraging the growth of tobacco, and that for giving a bounty on exportation of hemp from Ireland. They were brought in by two very worthy members, and on good principles; but I was sorry to see them; and after expressing my doubts of their propriety, left the house. Little also was said upon them. My objections were two; the first, that the cultivation of those weeds (if one of them could be at all cultivated to profit) was adverse to the introduction of a good course of agriculture. The other, that the encouragement given to them, tended to establish that mischievous policy of considering Ireland as a country of staple, and a producer of raw materials.

When the rejection of the first propositions, and the acceptance of the last had jointly, as it was natural, raised a very strong discontent in Ireland, Lord Rockingham, who frequently said, that there never seemed a more opportune time for the relief of Ireland than that moment, when Lord North had rejected all rational propositions for its relief, without consulting, I believe, any one living, did, what he is not often very willing to do; but he thought this an occasion of magnitude enough to justify an extraordinary step. He went into the closet, and made a strong representation on the matter to the king; which was not ill received, and I believe produced good effects. He then made the motion in the house of lords, which you may recollect, but he was content to withdraw all of censure which it contained, on the solemn promise of ministry, that they would, in the recess of parliament, prepare a plan for the benefit of Ireland, and have it in readiness to produce at the next meeting. You may recollect, that Lord Gower became in a particular manner bound for the fulfilling this engagement. Even this did not satisfy; and most of the minority were very unwilling that parliament should be prorogued, until something effectual on the subject should be done, particularly as we saw that the distresses, discontents, and armaments of Ireland, were increasing every day, and that we are not so much lost to common sense, as not to know the wisdom and efficacy of early concession, in circumstances such as ours.

The session was now at an end. The ministers, instead of attending to a duty, that was so urgent on them, employed themselves, as usual, in endeavours to destroy the reputation of those who were bold enough to remind them of it. They caused it to be industriously circulated through the nation,

that the distresses of Ireland were of a nature hard to be traced to the true source; that they had been monstrously magnified; and that, in particular, the official reports from Ireland had given the lie (that was their phrase) to Lord Rockingham's representations. And, attributing the origin of the Irish proceedings wholly to us, they asserted, that every thing done in parliament upon the subject, was with a view of stirring up rebellion; "that neither the Irish legislature, nor their constituents, had signified any dissatisfaction at the relief obtained in the session preceding the last; that to convince both of the impropriety of their *peaceable* conduct, opposition, by making demands in the name of Ireland, pointed out what she might extort from Great Britain; that the facility with which relief was (formerly) granted, instead of satisfying opposition, was calculated to create new demands. These demands, as they *interfered* with the commerce of Great Britain, were *certain* of being opposed; a circumstance which could not fail to create that desirable confusion which suits the views of the party. That they (the Irish) had long felt their own misery, *without knowing well from whence it came.* Our worthy patriots, by *pointing out Great Britain* as the *cause of Irish distress,* may have some chance of rousing Irish resentment." This I quote from a pamphlet, as perfectly contemptible in point of writing as it is false in its facts, and wicked in its design: but as it is written, under the authority of ministers, by one of their principal literary pensioners, and was circulated with great diligence, and, as I am credibly informed, at a considerable expense to the public, I use the words of that book, to let you see in what manner the friends and patrons of Ireland, the heroes of your parliament, represented all efforts for your relief here; what means they took to dispose the minds of the people towards that great object; and what encouragement they gave to all who should choose to exert themselves in your favour. Their unwearied endeavours were not wholly without success, and the unthinking people in many places became ill-affected towards us on this account. For the ministers proceeded in your affairs, just as they did with regard to those of America. They always represented you as a parcel of blockheads without sense, or even feeling; that all your words were only the echo of faction here; and (as you have seen above) that you had not understanding enough to know that your trade was cramped by restrictive acts of the British parliament, unless we had, for factious purposes, given you the information.

They were so far from giving the least intimation of the measures which have since taken place, that those who were supposed the best to know their intentions, declared them impossible in the actual state of the two kingdoms, and spoke of nothing but an act of union, as the only way that could be found of giving freedom of trade to Ireland, consistently with the interests of this kingdom. Even when the session opened, Lord North declared that he did not know what remedy to apply to a disease, of the cause of which he was ignorant; and ministry not being then entirely resolved how far they should submit to your energy, they, by anticipation, set the above author, or some of his associates, to fill the newspapers with invectives against us, as distressing the minister by extravagant demands in favour of Ireland.

I need not inform you, that every thing they asserted of the steps taken in Ireland, as the result of our machinations, was utterly false and groundless. For myself, I seriously protest to you, that I neither wrote a word or received a line upon any matter relative to the trade of Ireland, or to the politics of it, from the beginning of the last session to the day that I was honoured with your letter. It would be an affront to the talents in the Irish parliament to say one word more.

What was done in Ireland during that period, in and out of parliament, never will be forgotten. You raised an army new in its kind, and adequate to its purposes. It effected its end without its exertion. It was not under the authority of law, most certainly; but it derived from an authority still higher; and as they say of faith, that it is not contrary to reason, but above it; so this army did not so much contradict the spirit of the law as supercede it. What you did in the legislative body is above all praise. By your proceeding with regard to the supplies, you revived the grand use and characteristic benefit of parliament, which was on the point of being entirely lost amongst us. These sentiments I never concealed, and never shall; and Mr. Fox expressed them with his usual power when he spoke on the subject.

All this is very honourable to you. But in what light must we see it? How are we to consider your armament without commission from the crown, when some of the first people in *this* kingdom have been refused arms, at the time they did not only not reject, but solicited the king's commissions? Here to arm and embody would be represented as little less than high treason, if done on private authority—With you it receives the thanks of a privy counsellor of Great Britain, who obeys the Irish house of lords, in that point, with pleasure; and is

made secretaty of state, the moment he lands here, for his reward. You shortened the credit given to the crown to six months—You hung up the public credit of your kingdom by a thread—You refused to raise any taxes, whilst you confessed the public debt, and public exigencies, to be great and urgent beyond example. You certainly acted in a great style, and on sound and invincible principles. But if we, in the opposition, which fills Ireland with such loyal horrors, had even attempted, what we never did even attempt, the smallest delay, or the smallest limitation of supply, in order to a constitutional coercion of the crown, we should have been decried by all the court and tory mouths of this kingdom, as a desperate faction, aiming at the direct ruin of the country, and to surrender it, bound hand and foot, to a foreign enemy. By actually doing what we never ventured to attempt, you have paid your court with such address, and have won so much favour with his majesty and his cabinet, that they have, of their special grace and mere motion, raised you to new titles ; and, for the first time, in a speech from the throne, complimented you with the appellation of "faithful and loyal"—and, in order to insult our low spirited and degenerate obedience, have thrown these epithets and your resistance together in our teeth ! What do you think were the feelings of every man, who looks upon parliament in an higher light than that of a market-overt for legalizing a base traffick of votes and pensions, when he saw you employ such means of coercion to the crown, in order to coerce our parliament through *that* medium ? How much his majesty is pleased with *his* part of the civility must be left to his own taste. But as to us, you declared to the world, that you knew that the way of bringing us to reason, was to apply yourselves to the true source of all our opinions, and the only motive to all our conduct ! Now, it seems, you think yourselves affronted, because a few of us express some indignation at the minister who has thought fit to strip us stark naked, and expose the true state of our poxed and pestilential habit to the world ! Think, or say, what you will in Ireland, I shall ever think it a crime hardly to be expiated by his blood. He might, and ought, by a longer continuance, or by an earlier meeting of this parliament, to have given us the credit of some wisdom, in foreseeing and anticipating an approaching force. So far from it, Lord Gower, coming out of his own cabinet, declares, that one principal cause of his resignation was, his not being able to prevail on the present minister to give any sort of application to this business. Even on the late meeting of parliament, nothing determinate could be drawn from him, or

from any of his associates, until you had actually passed the short money bill; which measure they flattered themselves, and assured others, you would never come up to. Disappointed in their expectation at seeing the siege raised, they surrendered at discretion.

Judge, my dear sir, of our surprise, at finding your censure directed against those whose only crime was, in accusing the ministers of not having prevented your demands by our graces; of not having given you the natural advantages of your country, in the most ample, the most early, and the most liberal manner; and for not having given away authority in such a manner as to insure friendship. That you should make the panegyric of the ministers is what I expected; because in praising their bounty, you paid a just compliment to your own force. But that you should rail at us, either individually, or collectively, is what I can scarcely think a natural proceeding. I can easily conceive that gentlemen might grow frightened at what they had done;—that they might imagine they had undertaken a business above their direction;—that having obtained a state of independence for their country, they meant to take the deserted helm into their own hands, and supply by their very real abilities the total inefficacy of the nominal government. All these might be real, and might be very justifiable motives for their reconciling themselves cordially to the present court system. But I do not so well discover the reasons that could induce them, at the first feeble dawning of life in this country, to do all in their power to cast a cloud over it; and to prevent the least hope of our effecting the necessary reformations, which are aimed at in our constitution, and in our national economy.

But, it seems, I was silent at the passing the resolutions. Why—what had I to say? If I had thought them too much, I should have been accused of an endeavour to inflame England. If I should represent them as too little, I should have been charged with a design of fomenting the discontents of Ireland into actual rebellion. The treasury bench represented that the affair was a matter of state:—they represented it truly. I therefore only asked, whether they knew these propositions to be such as would satisfy Ireland; for, if they were so, they would satisfy me. This did not indicate, that I thought them too ample. In this our silence (however dishonourable to parliament) there was one advantage; that the whole passed, as far as it is gone, with complete unanimity; and so quickly, that there was no time left to excite any opposition to it out of doors. In the West India business, reasoning on what had lately passed in the parliament of Ireland, and on the mode in which it was

opened here, I thought I saw much matter of perplexity. But I have now better reason than ever to be pleased with my silence. If I had spoken; one of the most honest and able men* in the Irish parliament, would probably have thought my observation an endeavour to sow dissension, which he was resolved to prevent; and one of the most ingenious and one of the most amiable men† that ever graced yours or any house of parliament, might have looked on it as a chimera. In the silence I observed, I was strongly countenanced (to say no more of it) by every gentleman of Ireland, that I had the honour of conversing with in London. The only word for that reason, which I spoke, was to restrain a worthy county member,‡ who had received some communication from a great trading place in the county he represents, which, if it had been opened to the house, would have led to a perplexing discussion of one of the most troublesome matters that could arise in this business. I got up to put a stop to it; and I believe, if you knew what the topic was, you would commend my discretion.

That it should be a matter of public discretion in me, to be silent on the affairs of Ireland, is what, on all accounts, I bitterly lament. I stated to the house what I felt; and I felt as strongly as human sensibility can feel, the extinction of my parliamentary capacity, where I wished to use it most. When I came into this parliament, just fourteen years ago—into this parliament, then, in vulgar opinion at least, the presiding council of the greatest empire existing (and perhaps, all things considered, that ever did exist) obscure, and a stranger as I was, I considered myself as raised to the highest dignity to which a creature of our species could aspire. In that opinion, one of the chief pleasures in my situation, what was first and uppermost in my thoughts, was the hope, without injury to this country, to be somewhat useful to the place of my birth and education, which, in many respects internal and external, I thought ill and impolitically governed. But when I found that the house, surrendering itself to the guidance of an authority, not grown out of an experienced wisdom and integrity, but out of the accidents of court favour, had become the sport of the passions of men at once rash and pusillanimous;—that it had even got into the habit of refusing every thing to reason, and surrendering every thing to force, all my power of obliging either my country or individuals was gone; all the lustre of my imaginary rank was tarnished; and I felt degraded even by my elevation. I said this, or something to this effect. If it gives offence to Ireland, I am sorry for it;

* Mr. Grattan. † Mr. Hussey Burgh. ‡ Mr. Stanley, member for Lancashire.

A LETTER

TO

JOHN MERLOTT, ESQ.*

DEAR SIR,

I AM very unhappy to find, that my conduct in the business of Ireland, on a former occasion, had made many to be cold and indifferent, who would otherwise have been warm in my favour. I really thought, that events would have produced a quite contrary effect; and would have proved to all the inhabitants of Bristol, that it was no desire of opposing myself to their wishes, but a certain knowledge of the necessity of their affairs, and a tender regard to their honour and interest, which induced me to take the part which I then took. They placed me in a situation, which might enable me to discern what was fit to be done on a consideration of the relative circumstances of this country and all its neighbours. This was what you could not so well do yourselves; but you had a right to expect that I should avail myself of the advantage which I derived from your favour. Under the impression of this duty and this trust, I had endeavoured to render, by preventive graces and concessions, every act of power at the same time an act of lenity; —the result of English bounty, and not of English timidity and distress. I really flatterd myself, that the events, which have proved beyond dispute the prudence of such a maxim, would have obtained pardon for me, if not approbation. But if I have not been so fortunate, I do most sincerely regret my great loss; with this comfort, however, that, if I have disobliged my constituents, it was not in pursuit of any sinister interest or any party passion of my own, but in endeavouring to save them from disgrace, along with the whole community to which they and I belong. I shall be concerned for this, and very much so; but I should be more concerned, if, in gratifying a present humour of theirs, I had rendered myself unworthy of their former or their future choice. I confess that I could not bear to face my constituents at the next general election,

* An eminent merchant in the city of Bristol, of which Mr. Burke was one of the representatives in parliament. It relates to the same subject as the preceding letter.

if I had been a rival to Lord North in the glory of having refused some small insignificant concessions, in favour of Ireland, to the arguments and supplications of English members of parliament; and in the very next session, on the demand of 40,000 Irish bayonets, of having made a speech of two hours long to prove that my former conduct was founded upon no one right principle, either of policy, justice, or commerce. I never heard a more elaborate, more able, more convincing, and more shameful speech. The debator obtained credit; but the statesman was disgraced forever. Amends were made for having refused small, but timely concessions, by an unlimited and untimely surrender, not only of every one of the objects of former restraints, but virtually of the whole legislative power itself which had made them. For it is not necessary to inform you that the unfortunate parliament of this kingdom did not dare to qualify the very liberty she gave of trading with her *own* plantations, by applying, of her *own* authority, any one of the commercial regulations to the new traffick of Ireland, which bind us here under the several acts of navigation. We were obliged to refer them to the parliament of Ireland, as conditions; just in the same manner, as if we were bestowing a privilege of the same sort on France and Spain, or any other independent power, and, indeed, with more studied caution than we should have used, not to shock the principle of their independence. How the minister reconciled the refusal to reason, and the surrender to arms, raised in defiance of the prerogatives of the crown of his master, I know not; it has probably been settled in some way or other between themselves. But however the king and his ministers may settle the question of his dignity and his rights, I thought it became me by vigilance and foresight to take care of yours; I thought I ought rather to lighten the ship in time than expose it to a total wreck. The conduct pursued seemed to me without weight or judgment, and more fit for a member for Banbury than a member for Bristol. I stood therefore silent with grief and vexation on that day of the signal shame and humiliation of this degraded king and country. But it seems the pride of Ireland, in the day of her power, was equal to ours, when we dreamt we were powerful too. I have been abused there even for my silence, which was construed into a desire of exciting discontent in England. But, thank God, my letter to Bristol was in print; my sentiments on the policy of the measure were known and determined, and such as no man could think me absurd enough to contradict. When I am no longer a free agent, I am obliged in the crowd to yield to necessity; it is surely

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enough that I silently submit to power: it is enough that I do not foolishly affront the conqueror; it is too hard to force me to sing his praises whilst I am led in triumph before him; or to make the panegyric of our own minister, who would put me, neither in a condition to surrender with honour, or to fight with the smallest hope of victory. I was, I confess, sullen, and silent on that day: and shall continue so, until I see some disposition to inquire into this and other causes of the national disgrace. If I suffer in my reputation for it in Ireland I am sorry; but it neither does nor can affect me so nearly as my suffering in Bristol, for having wished to unite the interests of the two nations in a manner that would secure the supremacy of this.

Will you have the goodness to excuse the length of this letter. My earnest desire of explaining myself in every point which may affect the mind of any worthy gentleman in Bristol is the cause of it. To yourself and to your liberal and manly notions I know it is not so necessary. Believe me,

My dear sir,

Your most faithful

Beaconsfield, and obedient humble servant,

April 4th, 1780. EDMUND BURKE.

To John Merlott, Esq. Bristol.

LETTERS,

WITH

REELECTIONS ON THE EXECUTIONS

OF THE

RIOTERS IN 1780.*

TO THE LORD CHANCELLOR.

MY LORD,

I HOPE I am not too late with the inclosed slight observations. If the execution already ordered cannot be postponed, might I venture to recommend that it should extend to one only; and then the plan suggested in the inclosed paper may, if your lordship thinks well of it, take place, with such improvements as your better judgment may dictate. As to fewness of the executions, and the good effects of that policy, I cannot for my own part entertain the slightest doubt.

If you have no objection, and think it may not occupy more of his majesty's time than such a thing is worth, I should not be sorry that the inclosed was put into the king's hands.

I have the honor to be,
My lord,
Your lordship's most obedient
humble servant,
EDMUND BURKE.

Charles-street,
July 10, 1780.

* It appears by the following extract from a letter written by the earl of Mansfield to Mr Burke, dated the 17th July, 1780, that these REFLECTIONS had also been communicated to him—" I have received the honour of your letter and very judicious thoughts. Having been so greatly injured myself, I have thought it more decent not to attend the reports, and consequently have not been present at any deliberation upon the subject."

TO

THE EARL BATHURST,

Lord President of the Council.

MY LORD,

I came to town but yesterday, and therefore did not learn more early the probable extent of the executions, in consequence of the late disturbances. I take the liberty of laying before you, with the sincerest deference to your judgment, what appeared to me, very early, as reasonable in this business. Further thoughts have since occurred to me. I confess my mind is under no small degree of solicitude and anxiety on the subject; I am fully persuaded, that a proper use of mercy would not only recommend the wisdom and steadiness of government, but, if properly used, might be made a means of drawing out the principal movers in this wicked business, who have hitherto eluded your scrutiny. I beg pardon for this intrusion, and have the honour to be, with great regard and esteem,

My Lord,
Your lordship's most obedient
Humble servant,
EDMUND BURKE.

Charles-street,
July 13, 1780.

TO SIR GREY COOPER, BART.*

DEAR SIR,

According to your desire, I send you a copy of the few reflections on the subject of the present executions, which occurred to me in the earliest period of the late disturbances, and which all my experience and observation since have most strongly confirmed. The executions, taking those which have been made, which are now ordered, and which may be the natural consequence of the convictions in Surrey, will be undoubtedly too many to answer any good purpose. Great slaughter attended

* One of the secretaries of the treasury.

the suppression of the tumults; and this ought to be taken in discount from the execution of the law. For God's sake entreat of Lord North, to take a view of the sum total of the deaths before any are ordered for execution; for by not doing something of this kind, people are decoyed in detail into severities they never would have dreamed of, if they had the whole in their view at once. The scene in Surrey would have affected the hardest heart that ever was in an human breast. Justice and mercy have not such opposite interests as people are apt to imagine. I saw Lord Loughborough last night. He seemed strongly impressed with the sense of what necessity obliged him to go through, and I believe will enter into our ideas on the subject. On this matter you see that no time is to be lost. Before a final determination, the first thing I would recommend is, that if the very next execution cannot be delayed (by the way I do not see why it may not) it may be of but a single person; and that afterwards you should not exceed two or three: for it is enough for one riot, where the very act of parliament, on which you proceed, is rather a little hard in its sanctions and its construction: not that I mean to complain of the latter, as either new or strained; but it was rigid from the first.

I am,
Dear Sir,
Your most obedient
Humble servant,
EDMUND BURKE.

Tuesday,
18th July, 1780.

I really feel uneasy on this business, and should consider it as a sort of personal favour, if you do something to limit the extent and severity of the law on this point. Present my best compliments to Lord North, and if he thinks that I have had wishes to be serviceable to government on the late occasion, I shall on my part think myself abundantly rewarded, if a few lives less than first intended, should be saved; I should sincerely set it down as a personal obligation, though the thing stands upon general and strong reason of its own.

SOME THOUGHTS

ON

THE APPROACHING EXECUTIONS,

HUMBLY OFFERED TO CONSIDERATION.

As the number of persons convicted on account of the late unhappy tumults will probably exceed what any one's idea of vengeance or example would deliver to capital punishment, it is to be wished, that the whole business, as well with regard to the number and description of those who are to suffer death, as with regard to those who shall be delivered over to lighter punishment, or wholly pardoned, should be entirely a work of reason.

It has happened frequently in cases of this nature, that the fate of the convicts has depended more upon the accidental circumstance of their being brought earlier or later to trial, than to any steady principle of equity applied to their several cases. Without great care and sobriety, criminal justice generally begins with anger, and ends in negligence. The first that are brought forward, suffer the extremity of the law, with circumstances of mitigation in their case, and after a time the most atrocious delinquents escape merely by the satiety of punishment.

In the business now before his majesty, the following thoughts are humbly submitted:

If I understand the temper of the public at this moment, a very great part of the lower, and some of the middling people of this city, are in a very critical disposition, and such as ought to be managed with firmness and delicacy. In general, they rather approve than blame the principles of the rioters; though the better sort of them are afraid of the consequences of those very principles which they approve. This keeps their minds in a suspended and anxious state, which may very easily be exasperated by an injudicious severity into desperate resolutions; or by weak measures, on the part of government, it may be encouraged to the pursuit of courses which may be of the most dangerous consequences to the public.

There is no doubt, that the approaching executions will very much determine the future conduct of those people. They ought to be such as will humble, not irritate. Nothing will make government more awful to them, than to see that it does not proceed by chance, or under the influence of passion.

It is therefore proposed, that no execution should be made, until the number of persons which government thinks fit to try, is completed. When the whole is at once under the eye, an examination ought to be made into the circumstances of every particular convict; and *six*, at the very utmost, of the fittest examples may then be selected for execution, who ought to be brought out and put to death, on one and the same day, in six different places, and in the most solemn manner that can be devised. Afterwards, great care should be taken, that their bodies may not be delivered to their friends, or to others, who may make them objects of compassion, or even veneration; some instances of the kind have happened, with regard to the bodies of those killed in the riots.

The rest of the malefactors ought to be either condemned for larger or shorter terms, to the lighters; houses of correction; service in the navy; and the like, according to the case.

This small number of executions, and all at one time, though in different places, is seriously recommended; because it is certain, that a great havoc among criminals hardens rather than subdues the minds of people inclined to the same crimes; and therefore fails of answering its purpose as an example. Men who see their lives respected and thought of value by others, come to respect that gift of God themselves. To have compassion for one's self, or to care more or less for one's own life, is a lesson to be learned just as every other; and I believe it will be found, that conspiracies have been most common and most desperate where their punishment has been most extensive and most severe.

Besides, the least excess in this way, excites a tenderness in the milder sort of people, which makes them consider government in an harsh and odious light. The sense of justice in men is overloaded and fatigued with a long series of executions, or with such a carnage at once, as rather resembles a massacre, than a sober execution of the laws. The laws thus lose their terror in the minds of the wicked, and their reverence in the minds of the virtuous.

I have ever observed, that the execution of one man fixes the attention and excites awe; the execution of multitudes dissipates and weakens the effect: but men reason themselves into disapprobation and disgust; they compute more as they feel

less; and every severe act, which does not appear to be necessary, is sure to be offensive.

In selecting the criminals, a very different line ought to be followed, from that recommended by the champions of the protestant association. They recommend, that the offenders for plunder ought to be punished, and the offenders from principle spared. But the contrary rule ought to be followed. The ordinary executions, of which there are enough in conscience, are for the former species of delinquents; but such common plunderers would furnish no example in the present case, where the false or pretended principle of religion, which leads to crimes, is the very thing to be discouraged.

But the reason which ought to make these people objects of selection for punishment, confines the selection to very few. For we must consider, that the whole nation has been for a long time guilty of their crime. Toleration is a new virtue in any country. It is a late ripe fruit in the best climates. We ought to recollect the poison, which, under the name of antidotes against popery, and such like mountebank titles, has been circulated from our pulpits and from our presses, from the heads of the church of England, and the heads of the dissenters. These publications, by degrees, have tended to drive all religion from our own minds, and to fill them with nothing but a violent hatred of the religion of other people, and of course with a hatred of their persons; and so, by a very natural progression, they have led men to the destruction of their goods and houses, and to attempts upon their lives.

This delusion furnishes no reason for suffering that abominable spirit to be kept alive by inflammatory libels, or seditious assemblies, or for government's yielding to it, in the smallest degree, any point of justice, equity, or sound policy. The king certainly ought not to give up any part of his subjects to the prejudices of another. So far from it, I am clearly of opinion, that on the late occasion, the catholics ought to have been taken more avowedly than they were under the protection of government, as the dissenters had been on a similar occasion.

But, though we ought to protect against violence the bigotry of others, and to correct our own too, if we have any left, we ought to reflect, that an offence, which in its cause is national, ought not in its effects to be vindicated on individuals, but with a very well tempered severity.

For my own part, I think the fire is not extinguished; on the contrary, it seems to require the attention of government more than ever; but as a part of any methodical plan for extinguishing this flame, it really seems necessary that the execution of justice should be as steady and as cool as possible.

SOME

ADDITIONAL REFLECTIONS

ON THE

EXECUTIONS.

The great number of sufferers seems to arise from the misfortune incident to the variety of judicatures which have tried the crimes. It were well if the whole had been the business of one commission; for now every trial seems as if it were a separate business, and in that light, each offence is not punished with greater severity than single offences of the kind are commonly marked; but, in reality and fact, this unfortunate affair, though diversified in the multitude of overt acts, has been one and the same riot; and therefore the executions, so far as regards the general effect on the minds of men, will have a reference to the unity of the offence, and will appear to be much more severe than such a riot, atrocious as it was, can well justify in government. I pray that it may be recollected, that the chief delinquents have hitherto escaped, and very many of those who are fallen into the hands of justice, are a poor thoughtless set of creatures, very little aware of the nature of their offence. None of the list-makers, the assemblers of the mob, the directors and arrangers, have been convicted. The preachers of mischief remain safe, and are wicked enough not to feel for their deluded disciples; no, not at all.

I would not plead the ignorance of the law in any, even the most ignorant, as a justification; but I am sure, that when the question is of mercy, it is a very great and powerful argument. I have all the reason in the world to believe, that they did not know their offence was capital.

There is one argument, which I beg may not be considered as brought for any invidious purpose, or meant as imputing blame any where, but which, I think, with candid and considerate men, will have much weight. The unfortunate delinquents were perhaps much encouraged by some remissness on the part of government itself. The absolute and entire impunity attending the same offence in Edinburgh, which was over and over again urged as an example and encouragement to

these unfortunate people, might be a means of deluding them. Perhaps, too, a languor in the beginning of the riots here (which suffered the leaders to proceed until very many, as it were, by the contagion of a sort of fashion, were carried to these excesses) might make these people think that there was something in the case which induced government to wink at the irregularity of the proceedings.

The conduct and condition of the lord mayor ought, in my opinion, to be considered. His answers to Lord Beauchamp, to Mr. Malo, and to Mr. Langdale, make him appear rather an accomplice in the crimes than guilty of negligence as a magistrate. Such an example set to the mob by the first magistrate of the city, tends greatly to palliate their offence.

The license and complete impunity too of the publications, which, from the beginning, instigated the people to such actions, and, in the midst of trials and executions, still continues, does in a great degree render these creatures an object of compassion. In the Public Advertiser of this morning, there are two or three paragraphs strongly recommending such outrages; and stimulating the people to violence against the houses and persons of Roman catholics, and even against the chapels of the foreign ministers.

I would not go so far as to adopt the maxim, *quicquid multis peccatur, inultum ;* but, certainly, offences committed by vast multitudes, are somewhat palliated in the *individuals ;* who, when so many escape, are always looked upon rather as unlucky than criminal. All our loose ideas of justice, as it affects any individual, have in them something of comparison to the situation of others ; and no systematic reasoning can wholly free us from such impressions.

Phil. de Comines says, our English civil wars were less destructive than others ; because the cry of the conqueror always was, " Spare the common people." This principle of war should be at least as prevalent in the execution of justice. The appetite of justice is easily satisfied, and it is best nourished with the least possible blood. We may too recollect, that between capital punishment and total impunity there are many stages.

On the whole, every circumstance of mercy and of comparative justice does, in my opinion, plead in favour of such low, untaught, or ill-taught wretches. But, above all, the policy of government is deeply interested, that the punishments should appear *one* solemn deliberate act, aimed not at random, and at particular offences, but done with a relation to the general spi-

rit of the tumults; and they ought to be nothing more than what is sufficient to mark and discountenance that spirit.

CIRCUMSTANCES FOR MERCY.

Not being principal.
Probable want of early and deliberate purposes.
Youth } where the highest malice does not appear.
Sex . . }
Intoxication and levity, or mere wantonness of any kind.

A LETTER

TO THE

RIGHT HON. HENRY DUNDAS,

One of His Majesty's Principal Secretaries of State,

WITH THE SKETCH OF A NEGRO CODE.

DEAR SIR,

I SHOULD have been punctual in sending you the sketch I promised of my old African code, if some friends from London had not come in upon me last Saturday, and engaged me till noon this day ; I send this packet by one of them, who is still here. If what I send be, as under present circumstances it must be, imperfect, you will excuse it as being done near twelve years ago. About four years since I made an abstract of it ; upon which I cannot at present lay my hands ; but I hope the marginal heads will in some measure supply it.

If the African trade could be considered with regard to itself only, and as a single object, I should think the utter abolition to be, on the whole, more advisable than any scheme of regulation and reform. Rather than suffer it to continue as it is, I heartily wish it at an end. What has been lately done has been done by a popular spirit, which seldom calls for, and indeed very rarely relishes a system made up of a great variety of parts, and which is to operate its effect in a great length of time. The people like short methods ; the consequences of which they sometimes have reason to repent of. Abolition is but a single act. To prove the nature of the trade, and to expose it properly, required, indeed, a vast collection of materials, which have been laboriously collected, and compiled with great judgment. It required also much perseverance and address to excite the spirit, which has been excited without doors, and which has carried it through. The greatest eloquence ever displayed in the house has been employed to second the efforts which have been made abroad. All this, however, leads but to one single resolve. When this was done, all was done. I speak of absolute and immediate abolition, the point which the

first motions went to, and which is in effect still pressed; though in this session, according to order, it cannot take effect. A *remote*, and a *gradual* abolition, though they may be connected, are not the same thing. The idea of the house seems to me, if I rightly comprehend it, that the two things are to be combined; that is to say, that the trade is gradually to decline, and to cease entirely at a determinate period. To make the abolition gradual, the regulations must operate as a strong discouragement. But it is much to be feared that a trade continued and discouraged, and with a sentence of death passed upon it, will perpetuate much ill blood between those who struggle for the abolition, and those who contend for an effectual continuance.

At the time when I formed the plan, which I have the honour to transmit to you, an abolition of the slave trade would have appeared a very chimerical project. My plan, therefore, supposes the continued existence of that commerce. Taking for my basis that I had an incurable evil to deal with, I cast about how I should make it as small an evil as possible, and draw out of it some collateral good.

In turning the matter over in my mind, at that time, and since, I never was able to consider the African trade upon a ground disconnected with the employment of negroes in the West-Indies, and distinct from their condition in the plantations whereon they serve. I conceived that the true origin of the trade was not in the place it was begun at, but at the place of its final destination. I therefore was, and I still am of opinion, that the whole work ought to be taken up together; and that a gradual abolition of slavery, in the West-Indies, ought to go hand in hand with any thing, which should be done with regard to its supply from the coast of Africa. I could not trust a cessation of the demand for this supply to the mere operation of any abstract principle (such as, that if their supply was cut off, the planters would encourage and produce an effectual population) knowing that nothing can be more uncertain than the operation of general principles, if they are not embodied in specific regulations. I am very apprehensive, that so long as the slavery continues, some means for its supply will be found. If so, I am persuaded, that it is better to allow the evil, in order to correct it, than by endeavouring to forbid what we cannot be able wholly to prevent, to leave it under an illegal, and therefore an unreformed existence. It is not that my plan does not lead to the extinction of the slave trade; but it is through a very slow progress, the chief effect of which is to be operated in our own plantations, by rendering, in a length of time, all fe-

reign supply unnecessary. It was my wish, whilst the slavery continued, and the consequent commerce, to take such measures as to civilize the coast of Africa by the trade which now renders it more barbarous; and to lead by degrees to a more reputable, and, possibly, a more profitable connection with it than we maintain at present.

I am sure that you will consider, as a mark of my confidence in your and Mr. Pitt's honour and generosity, that I venture to put into your hands a scheme, composed of many and intricate combinations, without a full explanatory preface, or any attendant notes, to point out the principles, upon which I proceeded, in every regulation which I have proposed towards the civilization and gradual manumission of Negroes in the two hemispheres. I confess, I trust infinitely more (according to the sound principles of those who ever have at any time meliorated the state of mankind) to the effect and influence of religion, than to all the rest of the regulations put together.

Whenever, in my proposed reformation, we take our *point of departure* from a state of slavery, we must precede the donation of freedom by disposing the minds of the objects to a disposition to receive it without danger to themselves or to us. The process of bringing *free* savages to order and civilization is very different. When a state of slavery is that upon which we are to work, the very means which lead to liberty must partake of compulsion. The minds of men, being crippled with that restraint, can do nothing for themselves; every thing must be done for them. The regulations can owe little to consent. Every thing must be the creature of power. Hence it is, that regulations must be multiplied: particularly as you have two parties to deal with. The planter you must at once restrain and support; and you must controul, at the same time that you ease the servant. This necessarily makes the work a matter of care, labour, and expense. It becomes in its nature complex. But I think neither the object impracticable, nor the expense intolerable; and I am fully convinced that the cause of humanity would be far more benefited by the continuance of the trade and servitude, regulated and reformed, than by the total destruction of both, or either. What I propose, however, is but a beginning of a course of measures, which an experience of the effects of the evil and the reform, will enable the legislature hereafter to supply and correct.

I need not observe to you, that the forms are often neglected, penalties not provided, &c. &c. &c. But all this is merely mechanical, and what a couple of days application would set to rights.

I have seen what has been done by the West Indian assemblies. It is arrant trifling. They have done little; and what they have done is good for nothing; for it is totally destitute of an *executory* principle. This is the point to which I have applied my whole diligence. It is easy enough to say what shall be done:—to cause it to be done—*Hic labor, hoc opus.*

I ought not to apologize for letting this scheme lie beyond the period of the *Horatian* keeping—I ought much more to entreat an excuse for producing it now. Its whole value (if it has any) is the coherence and mutual dependency of parts in the scheme; separately they can be of little or no use.

I have the honour to be, with very great respect and regard,

Dear sir,

Your most faithful,

Beaconsfield, and obedient humble servant,

Easter Monday Night, 1792. EDMUND BURKE.

SKETCH

OF

THE NEGRO CODE.

This constitution consists of four principal members.

I. The rules for qualifying a ship for the African trade.

II. The mode of carrying on the trade upon the coast of Africa, which includes a plan for introducing civilization in that part of the world.

III. What is to be observed from the time of shipping negroes to the sale in the West India islands.

IV. The regulations relative to the state and condition of slaves in the West Indies, their manumission, &c.

Preamble. WHEREAS it is expedient, and conformable to the priciples of true religion and morality, and to the rules of sound policy, to put an end to all traffick in the persons of men, and to the detention of their said persons in a state of slavery, as soon as the same may be effected without producing great inconveniences in the sudden change of practices of such long standing; and, during the time of the continuance of the said practices, it is desirable and expedient, by proper regulations, to lessen the inconveniences and evils attendant on the said traffick and state of servitude, until both shall be gradually done away:

And whereas the objects of the said trade and consequential servitude, and the grievances resulting therefrom, come under the principal heads following, the regulations ought thereto to be severally applied; that is to say, that provision should be made by the said regulations,

1st. For duly qualifying ships for the said traffick;

2d. For the mode and conditions of permitting the said trade to be carried on upon the coast of Africa.

3d. For the treatment of the negroes in their passage to the West India islands;

4th. For the government of the negroes, which are or shall be employed in his majesty's colonies and plantations in the West Indies:

Be it therefore enacted, that every ship or trading vessel, which is intended for the negro trade, with the name of the owner or owners thereof, shall be entered and registered, as ships trading to the West Indies are by law to be registered, with the further provisions following: Ships to be registered.

1. The said entry and register shall contain an account of the greatest number of negroes of all descriptions, which are proposed to be taken into the said ship or trading vessel; and the said ship, before she is permitted to be entered outwards, shall be surveyed by a ship-carpenter to be appointed by the collector of the port from which the said vessel is to depart, and by a surgeon also appointed by the collector, who hath been conversant in the service of the said trade, but not at the time actually engaged or covenanted therein; and the said carpenter and surgeon shall report to the collector, or, in his absence, to the next principal officer of the port, upon oath (which oath the said collector or principal officer is hereby empowered to administer) her measurement and what she contains in builder's tonnage, and that she has feet of grated port-holes between the decks, and that she is otherwise fitly found as a good transport vessel. Measured and surveyed.

2. And be it enacted, that no ship employed in the said trade shall, upon any pretence, take in more negroes than one grown man or woman for one ton and half of builder's tonnage, nor more than one boy or girl for one ton. Number of slaves limited.

3. That the said ship or other vessel shall lay in, in proportion to the ship's company of the said vessel, and the number of negroes registered, a full and sufficient store of sound provision, so as to be secure against all probable delays and accidents; namely, salted beef, pork, salt fish, butter, cheese, biscuit, flour, rice, oat-meal, and white peas; but no horse-beans or other inferior provisions; and the said ship shall be properly provided with water-casks or jars, in proportion to the intended number of the said negroes; and the said ship shall be also provided with a proper and sufficient stock of coals or fire-wood. Provisions.

4. And every ship, entered as aforesaid, shall take out a coarse shirt, and a pair of trowsers or petticoat, for each negro intended to be taken aboard; as also a mat, or coarse mattress or hammock, for the use of the said negroes. Stores.

The proportions of provision, fuel, and clothing, to be regulated by the table annexed to this act.

Certificate thereof.

5. And be it enacted, that no ship shall be permitted to proceed on the said voyage or adventure, until the searcher of the port, from whence the said vessel shall sail, or such person as he shall appoint to act for him, shall report to the collector, that he hath inspected the said stores, and that the ship is accommodated and provided in the manner hereby directed.

Guns for trade to be inspected

6. And be it enacted, that no guns be exported to the coast of Africa, in the said or any other trade, unless the same be duly marked with the maker's name on the barrels before they are put into the stocks, and vouched by an inspector in the place where the same are made, to be without fraud, and sufficient and merchantable arms.

Owners and masters to enter into bonds.

7. And be it enacted, that before any ship as aforesaid shall proceed on her voyage, the owner or owners, or an attorney by them named, if the owners are more than two, and the master, shall severally give bond, the owners by themselves, the master for himself, that the said master shall duly conform himself in all things to the regulations in this act contained, so far as the same regards his part in executing and conforming to the same.

II. And whereas, in providing for the second object of this act, that is to say, for the trade on the coast of Africa, it is first prudent not only to provide against the manifold abuses to which a trade of that nature is liable, but that the same may be accompanied, as far as it is possible, with such advantages to the natives, as may tend to the civilizing them, and enabling them to enrich themselves by means more desirable, and to carry on hereafter a trade more advantageous and honourable to all parties:

And whereas religion, order, morality and virtue, are the elemental principles, and the knowledge of letters, arts and handicraft trades, the chief means of such civilization and improvement; for the better attainment of the said good purposes,

Marts to be established on the coast.

1. Be it hereby enacted, that the coast of Africa, on which the said trade for negroes may be carried on, shall be, and is hereby divided into marts or staples as hereafter follows [here name the marts.] And be it enacted, that it shall not be lawful for the master of any ship to purchase any negro or negroes, but at one of the said marts or staples.

Governors and counsellors.

2. That the directors of the African Company shall appoint, where not already appointed, a governor, with

three counsellors, at each of the said marts, with a salary of to the governor, and of to each of the said counsellors. The said governor, or in his absence or illness, the senior counsellor shall, and is hereby empowered to act as a justice of the peace, and they or either of them, are authorized, ordered and directed, to provide for the peace of the settlement, and the good regulation of their station and stations severally, according to the rules of justice, to the directions of this act, and the instructions they shall receive from time to time from the said African Company; and the said African Company is hereby authorized to prepare instructions, with the assent of the lords of his majesty's privy council, which shall be binding in all things not contrary to this act, or to the laws of England, on the said governors and counsellors, and every of them, and on all persons acting in commission with them under this act, and on all persons residing within the jurisdiction of the magistrates of the said mart.

Ships of war stationed.

3. And be it enacted, that the lord high admiral or commissioners for executing his office, shall appoint one or more, as they shall see convenient, of his majesty's ships or sloops of war, under the command severally of a post captain, or master and commander, to each mart, as a naval station.

Inspectors appointed.

4. And be it enacted, that the lord high treasurer, or the commissioners for executing his office, shall name two inspectors of the said trade at every mart, who shall provide for the execution of this act, according to the directions thereof, so far as shall relate to them; and it is herby provided and enacted, that as cases of sudden emergency may arise, the said governor or first counsellor, and the first commander of his majesty's ship or ships on the said station, and the said inspectors, or the majority of them, the governor having a double or casting vote, shall have power and authority to make such occasional rules and orders relating to the said trade, as shall not be contrary to the instructions of the African Company, and which shall be valid until the same are revoked by the said African Company.

Lands may be purchased.

5. That the said African Company is hereby authorized to purchase, if the same may conveniently be done, with the consent of the privy council, any lands adjoining to the fort or principal mart aforesaid not exceeding acres, and to make allotments of the same. No allotment to one person to exceed (on pain of forfeiture) acres.

Churches and school-houses and hospitals to be erected.

6. That the African Company shall, at each fort or mart, cause to be erected, in a convenient place, and at a moderate cost, the estimate of which shall be approved by the treasury, one church, and one school-house, and one hospital; and shall appoint one principal chaplain, with a curate or assistant in holy orders, both of whom shall be recommended by the lord bishop of London, and the said chaplain, or his assistant, shall perform divine service and administer the sacraments according to the usage of the church of England, or to such mode, not contrary thereto, as to the said bishop shall seem more suitable to the circumstances of the people. And the said principal chaplain shall be the third member in the council, and shall be entitled to receive from the directors of the said African Company, a salary of and his assistant, a salary of and he shall have power to appoint one sober and discreet person, white or black, to be his clerk and catechist, at a salary of

Chaplain and assistant.

Clerk & catechist.

Schoolmaster.

7. And be it encated, that the African Company shall appoint one sufficient schoolmaster, who shall be approved by the bishop of London, and who shall be capable of teaching writing, arithmetic, surveying, and mensuration, at a salary of and the said African company is hereby authorized to provide, for each settlement, a carpenter and blacksmith, with such encouragement as to them shall seem expedient; who shall take each two apprentices from amongst the natives, to instruct them in the several trades, the African Company allowing them, as a fee for each apprentice, And the said African company shall appoint one surgeon and one surgeon's mate, who are to be approved on examination at Surgeons' Hall, to each fort or mart, with a salary of for the surgeon, and for his mate and the said surgeon shall take one native apprentice, at a fee to be settled by the African Company.

Carpenter and blacksmith.

Native apprentices.

Surgeon and Mate.

Native-apprentice.

How removable.

8. And be it enacted, that the said catechist, schoolmaster, surgeon, and surgeon's mate, as well as the tradesmen in the company's service, shall be obedient to the orders they shall from time to time receive from the governor and council of each fort; and if they or any of them, or any other person, in whatever station, shall appear, on complaint and proof to the majority of the commissioners, to lead a disorderly and debauched life, or use any profane or impious discourses, to the danger of defeating the purposes of this institution, and to the

scandal of the natives, who are to be led, by all due means, into a respect for our holy religion, and a desire of partaking of the benefits thereof, they are authorized and directed to suspend the said person from his office, or the exercise of his trade, and to send him to England (but without any hard confinement, except in case of resistance) with a complaint, with inquiry and proofs adjoined, to the African Company.

9. And be it enacted, that the bishop of London, for the time being, shall have full authority to remove the said chaplain, for such causes as to him shall seem reasonable.

No public officer to be concerned in the Negro trade.

10 That no governor, counsellor, inspector, chaplain, surgeon, or schoolmaster, shall be concerned or have any share, directly or indirectly, in the negro trade, on pain of

Journals and Letter-books to be kept and transmitted.

11. Be it enacted, that the said governor and council shall keep a journal of all the proceedings, and a book, in which copies of all their correspondence shall be entered, and they shall transmit copies of the said journals and letter-book, and their books of accounts, to the African Company, who, within of their receipt thereof, shall communicate the same to one of his majesty's principal secretaries of state.

Chaplain to report to the bishop of London.

12. And be it enacted that the said chaplain or principal minister shall correspond with the bishop of London, and faithfully and diligently transmit to him an account of whatever hath been done for the advancement of religion, morality and learning, amongst the natives.

Negros to be attested before sale.

13. And be it enacted, that no negro shall be conclusively sold, until he shall be attested by the two inspectors and chaplain; or in case of the illness of any of them, by one inspector, and the governor or one of the council; who are hereby authorized and directed, by the best means in their power, to examine into the circumstances and condition of the persons exposed to sale.

Causes for rejection.

14. And, for the better direction of the said inspectors, no persons are to be sold, who, to the best judgment of the said inspectors, shall be above thirty-five years of age, or who shall appear, on examination, stolen or carried away, by the dealers, by surprise; nor any person who is able to read in the Arabian or any other book; nor any woman who shall appear to be advanced three months in pregnancy; nor any person distorted or feeble, unless the said persons are consenting to such sale; or

any person afflicted with a grievous or contagious distemper. But if any person so offered is only lightly disordered, the said person may be sold; but must be kept in the hospital of the mart; and shall not be shipped until completely cured.

Traders to be licensed by the governors.

15. Be it enacted that no black or European factor or trader into the interior country, or on the coast, (the masters of English ships only excepted, for whose good conduct provision is otherwise herein made) shall be permitted to buy or sell in any of the said marts, unless he be approved by the governor of the mart, in which he is to deal, or in his absence or disability, by the senior counsellor for the time being, and obtaining a license from such governor or counsellor: and the said traders and factors shall, severally or jointly as they shall be concerned, before they shall obtain the said license, be bound in a recognizance with such surety for his or their good behaviour, as to the said governor shall seem the best that can be obtained.

Offences how to be tried & punished.

16. Be it enacted, that the said governor or other authority aforesaid, shall examine, as by duty of office, into the conduct of all such traders and factors, and shall receive and publicly hear (with the assistance of the council and inspectors aforesaid, and of the commodore, captain, or other principal commander of one of his majesty's ships on the said station, or as many of the same as can be assembled, two, whereof, with the governor, are hereby enabled to act) all complaints against them, or any of them; and if any black or white trader or factor (other than in this act excepted) either on inquisition of office or on complaint, shall be convicted by a majority of the said commissioners present, of stealing or taking by surprise any person or persons whatsoever, whether free, or the slaves of others, without the consent of their masters; or of wilfully and maliciously killing or maiming any person; or of any cruelty, (necessary restraint only excepted) or of firing houses, or destroying goods, the said trader or factor shall be deemed to have forfeited his recognizance, and his surety to have forfeited his: and the said trader or factor so convicted, shall be forever disabled from dealing in any of the said marts, unless the offence shall not be that of murder, maiming, arson, or stealing or surprising the person, and shall appear to the commissioners aforesaid to merit only, besides the penalty of his bond, a suspension for one year:

and the said trader or factor so convicted of murder, maiming, arson, stealing or surprising the person, shall, if a native, be delivered over to the prince to whom he belongs to execute farther justice on him. But it is hereby provided and enacted, that if any European shall be convicted of any of the said offences, he shall be sent to Europe, together with the evidence against him, and on the warrant of the said commissioners, the keeper of any of his majesty's jails in London, Bristol, Liverpool, or Glasgow, shall receive him, until he be delivered according to due course of law, as if the said offences had been committed within the cities and towns aforesaid.

17. Be it further enacted, that if the said governor, &c. shall be satisfied that any person or persons are exposed to sale, who have been stolen or surprised as aforesaid, or are not within the qualifications of sale in this act described, they are hereby authorized and require if it can be done, to send the persons so exposed to sale to their original habitation or settlement, in the manner they shall deem best for their security (the resonable charges whereof shall be allowed to the said governor by the African Company) unless the said persons choose to sell themselves; and then and in that case, their value in money and goods, at their pleasure, shall be secured to them, and be applicable to their use, without any dominion over the same of any purchaser, or of any master, to whom they may in any colony or plantation be sold, and which shall always be in some of his master's colonies and plantations only. And the master of the ship, in which such person shall embark, shall give bond for the faithful execution of his part of the trust at the island where he shall break bulk.

Negroes exposed to sale contrary to the provisions of this act, how to be dealt with.

18. Be it further enacted, that besides the hospitals on shore, one or more hospital ships shall be employed at each of the said chief marts, wherein slaves taken ill in the trading ships shall be accommodated, until they shall be cured; and then the owner may reclaim, and shall receive them, paying the charges, which shall be settled by regulation to be made by the authority in this act enabled to provide such regulations.

III. And whereas it is necessary that regulations be made to prevent abuses in the passage from Africa to the West-Indies:

Slave ships to be examined on the coast.

1. Be it further enacted, that the commander or lieutenant of the king's ship on each station shall have authority, as often as he shall see occasion, attended with one other of his officers and his surgeon or mate to enter into and inspect every trading ship in order to provide for the due execution of this act, and of any ordinances made in virtue thereof and conformable thereto, by the authorities herein constituted and appointed; and the said officer and officers are hereby required to examine every trading ship before she sails, and to stop the sailing of the said ship, for the breach of the said rules and ordinances, until the governor in council shall order and direct otherwise; and the master of the said ship shall not presume, under the penalty of ——— to be recovered in the courts of the West Indies, to sail without a certificate from the commander aforesaid, and one of the inspectors in this act appointed that the vessel is provided with stores and other accommodation sufficient for her voyage, and has not a greater number of slaves on board than by provisions of this act is allowed.

Governor to give special instructions.

2. And be it enacted, that the governor and council, with the assistance of the said naval commander, shall have power to give such special written instructions, for the health, discipline and care of the said slaves, during their passage, as to them shall seem good.

Presents and musical instruments to be provided.

3. And be it further enacted, that each slave, at entering the said ship, is to receive some present, not exceeding in value ———, to be provided according to the instructions aforesaid, and musical instruments according to the fashion of the country, are to be provided.

Table of allowances.

4. And be it further enacted, that the negroes on board the transports, and the seamen who navigate the same, are to receive their daily allowance, according to the table hereunto annexed, together with a certain quantity of spirits to be mixed with their water. And it is enacted, that the table is to be fixed, and continue for one week after sailing, in some conspicuous part of the said ship, for the seamen's inspection of the same.

Negro superintendants to be appointed.

5. And be it enacted, that the captain of each trading vessel shall be enabled, and is required to divide the slaves in his ship into crews of not less that ten, nor more than twenty persons each, and to appoint one negro man to have such authority severally over each crew, as according to his judgment, with the advice of the mate and surgeon, he and they shall see good to com-

mit to them, and to allow to each of them some compensation, in extraordinary diet and presents, not exceeding [ten shillings.]

6. And be it enacted, that any European officer or seaman, having unlawful communication with any woman slave, shall, if an officer, pay five pounds to the use of the said woman, on landing her from the said ship, to be stopped out of his wages; or if a seaman, forty shillings; the said penalties to be recovered on the testimony of the woman so abused, and one other.

Communication with female slaves how punished.

7. And be it enacted, that all and every commander of a vessel or vessels employed in slave trade, having received certificates from the port of the outfit, and from the proper officers in Africa and the West Indies, of their having conformed to the regulations of this act, and of their not having lost more than one-and-thirty of their slaves by death, shall be entitled to a bounty or premium of [ten pounds.]

Premium to commanders of slave ships.

IV. And whereas the condition of persons in a state of slavery is such, that they are utterly unable to take advantage of any remedy, which the laws may provide for their protection and the amendment of their condition, and have not the proper means of pursuing any process for the same, but are and must be under guardianship; and whereas it is not fitting that they should be under the sole guardianship of their masters, or their attorneys and overseers, to whom their grievances, whenever they suffer any, must ordinarily be owing;

1. Be it therefore enacted, that his majesty's attorney general for the time being successively shall, by his office, exercise the trust and employment of protector of negroes within the island in which he is or shall be attorney general to his majesty, his heirs and successors; and that the said attorney general, protector of negroes, is hereby authorized to hear any complaint on the part of any negro or negroes, and inquire into the same, or to institute an inquiry *ex officio* into any abuses, and to call before him and examine witnesses, upon oath, relative to the subject matter of the said official inquiry or complaint; and it is hereby enacted and declared, that the said attorney general, protector of negroes, is hereby authorised and empowered, at his discretion, to file an information *ex officio* for any offences committed against

Attorney general to be protector of negroes; to inquire and file informations *ex officio*.

the provisions of this act, or for any misdemeanors or wrongs against the said negroes, or any of them.

Power to challenge jurors.

2. And it is further enacted, that in all trials of such informations, the said protector of negroes may, and is hereby authorized, to challenge peremptorily a number not exceeding —— of the ju y who shall be impannelled to try the cha ge in the said information contained.

To appoint inspectors of the districts;

3. And be it enacted, that the said attorney general, protector of negroes, shall appoint inspectors, not exceeding the number of ——, at his discretion; and the said inspec ors shall be placed in convenient districts in each island severally, or shall twice in the year make a circuit in the same, according to the direction which they shall receive from the protector of negroes aforesaid; and the inspectors shall, and they are hereby required, twice in the year, to report in writing to the protector aforesaid, the state and condition of the negroes in their district or on their circuit severally, the number, sex, age, and occupation of the said negroes on each plantation; and the overseer, or chief manager on each plantation, is hereby required to furnish an account thereof, within [ten days] after the demand of the said inspectors, and to permit the inspector or inspectors aforesaid to examine into the same; and the said inspectors shall set forth, in the said report, the distempers to which the negroes are most liable, in the several parts of the island.

who are to report to him twice in the year, the number and condition of the slaves.

Instructions to be formed for the inspectors.

4. And be it enacted, that the said protector of negroes, by and with the consent of the governor and chief judge of each island, shall form instructions, by which the said inspectors shall discharge their trust in the manner the least capable of exciting any unreasonable hopes in the said negroes, or of weakening the proper authority of the overseer, and shall transmit them to one of his majesty's principal secretaries of state; and when sent back with his approbation, the same shall become the rule for the conduct of the said inspectors.

Registry.

5. And be it enacted, that the said attorney general, protector of negroes, shall appoint an office for registering all proceedings relative to the duty of his place, as protector of negroes, and shall appoint his chief clerk to be registrar, with a salary not exceeding ——.

Ports where negroes are to be landed; vessels to be inspected.

6. And be it enacted, that no negroes shall be landed for sale in any but the ports following; that is to say, ——; and the collector of each of the said ports severally, shall, within —— days after the arrival of any ship transporting negroes, report the same to the protector of ne-

groes, or to one of his inspectors; and the said inspector is hereby authorized and required to examine, or cause to be examined by one of his inspectors, with the assistance of the said collector, or his deputy, and a surgeon to be called in on the occasion, the state of the said ship and negroes; and upon what shall appear to them, the said protector of negroes, and the said collector and surgeon, to be a sufficient proof, either as arising from their own inspection or sufficient information on a summary process, of any contravention of this act, or cruelty to the negroes, or other malversation of the said captain, or any of his officers, the said protector shall impose a fine on him or them, not exceeding ——; which shall not, however, weaken or invalidate any penalty growing from the bond of the said master or his owners. And it is hereby provided, that if the said master or any of his officers shall find himself aggrieved by the said fine, he may, within —— days, appeal to the chief judge, if the court shall be sitting, or to the governor, who shall and are required to hear the said parties, and, on hearing, are to annul or confirm the same.

Masters or officers offending, to be fined.

7. And be it enacted, that no sale of negroes shall be made but in the presence of an inspector, and all negroes shall be sold severally, or in known and ascertained lots, and not otherwise; and a paper, containing the state and description of each negro severally sold, and of each lot, shall be taken and registered in the office aforesaid; and if, on inspection or information, it shall be found that any negroes shall have, in the same ship or any other at the same time examined, a wife, a husband, a brother, sister, or child, the person or persons so related, shall not be sold separately, at that or any future sale.

Rates respecting the sale of negroes

8. And be it enacted, that each and every of his majesty's islands and plantations, in which negroes are used in cultivation, shall be, by the governor and the protector of negroes for the time being, divided into districts, allowing as much as convenience will admit to the present division into parishes, and subdividing them where necessary into districts, according to the number of negroes. And the said governor and protector of negroes shall cause, in each district, a church to be built, in a convenient place, and a cemetery annexed, and an house for the residence of a clergyman, with —— acres of land annexed; and they are hereby authorized to treat for the necessary ground with the proprietor, who is hereby obliged

Every island to be divided into districts;

a church to be built in each.

to sell and dispose of the same to the said use; and in case of dispute concerning the value, the same to be settled by a jury, as in like cases is accustomed.

Appointment of a priest and clerk.

9. And be it enacted, that in each of the said districts shall be established a presbyter of the Church of England as by law established, who shall appoint under him one clerk, who shall be a free negro, when such properly qualified can be found, (otherwise a white man) with a salary, in each case, of ——; and the said minister and clerk, both or one, shall instruct the said negroes in the church catechism, or such other as shall be provided by the authority in this act named; and the said minister shall baptize as he shall think fit, all negroes not baptized, and not belonging to dissenters from the Church of England.

Owner to deliver a list of negroes to the minister, and to cause them to attend divine service

10. And the principal overseer of each plantation is hereby required to deliver annually unto the minister, a list of all the negroes upon his plantation, distinguishing their sex and age, and shall, under a penalty of ——, cause all the negroes under his care, above the age of —— years, to attend divine service once on every Sunday, except in case of sickness, infirmity, or other necessary cause to be given at the time; and shall, by himself or one of those who are under him, provide for the orderly behaviour of the negroes under him, and cause them to return to his plantation when divine service, or administration of sacraments, or catechism is ended.

Minister to direct punishment for disorderly conduct.

11. And be it enacted, that the minister shall have power to punish any negro for disorderly conduct during divine service, by a punishment not exceeding [ten] blows, to be given in one day and for one offence, which the overseer, or his under-agent or agents, is hereby directed, according to the orders of the said minister, effectually to inflict, whenever the same shall be ordered.

Spirituous liquors not to be sold.

12. And be it enacted, that no spirituous liquors of any kind shall be sold, except in towns, within —— miles distance of any church, nor within any district during divine service, and an hour preceding and an hour following the same; and the minister of each parish shall, and is hereby authorized to act as a justice of the peace in enforcing the said regulation.

Register of births, burials, & marriages.

13. And be it enacted, that every minister shall keep a register of births, burials and marriages, of all negroes and mulattoes in his district.

14. And be it enacted, that the ministers of the several districts shall meet annually, on the —— day of ——, in a synod of the island to which they belong; and the said synod shall have for its president, such person as the bishop of London shall appoint for his commissary; and the said synod or general assembly is hereby authorized, by a majority of voices, to make regulations; which regulations shall be transmitted by the said president or commissary, to the bishop of London; and when returned by the bishop of London approved of, then, and not before, the said regulations shall be held in force to bind the said clergy, their assistants, clerks and schoolmasters only, and no other persons.

Synod to assemble annually, and to form regulations;

15. And be it enacted, that the said president shall collect matter in the said assembly, and shall make a report of the state of religion and morals in the several parishes from whence the synod is deputed, and shall transmit the same, once in the year, in duplicate, through the governor and protector of negroes, to the bishop of London.

and to report to the bishop of London.

16. And be it enacted and declared, that the bishop of London for the time being shall be patron to all and every the said cures in this act directed, and the said bishop is hereby required to provide for the due filling thereof, and is to receive from the fund in this act provided, for the due execution of this act, a sum not exceeding —— for each of the said ministers, for his outfit and passage.

Bishop of London to be patron of the cures;

17. And be it enacted, that, on misbehaviour and on complaint from the said synod, and on hearing the party accused in a plain and summary manner, it shall and may be lawful for the bishop of London to suspend or to remove any minister from his cure, as his said offences shall appear to merit.

and to have power of suspending and removing ministers.

18. And be it enacted, that for every two districts, a school shall be established for young negroes, to be taught three days in the week, and to be detained from their owner four hours in each day: The number not to be more or fewer than twenty males in each district, who shall be chosen, and vacancies filled, by the minister of the district; and the said minister shall pay to the owner of the said boy, and shall be allowed the same in his accounts at the synod, to the age of twelve years old, three-pence by the day; and for every boy, from twelve years old to fifteen, five-pence by the day.

Schools for young negroes

19. And it is enacted, that if the president of the synod aforesaid shall certify to the protector of negroes, that any boys in the said schools (provided that the number in no one year shall exceed one in the island of Jamaica, and one in two years in the islands of Barbadoes, Antigua, and Grenada; and one in four years in any of the other islands) do show a remarkable aptitude for learning, the said protector is hereby authorized and directed to purchase the said boy, at the best rate at which boys of that age and strength have been sold within the year; and the said negro so purchased, shall be under the entire guardianship of the said protector of negroes, who shall send him to the bishop of London, for his further education in England, and may charge in his accounts for the expense of transporting him to England; and the bishop of London shall provide for the education of such of the said negroes as he shall think proper subjects, until the age of twenty-four years, and shall order those who shall fall short of expectation after one year, to be bound apprentice to some handicraft trade; and when his apprenticeship is finished, the lord mayor of London is hereby authorized and directed to receive the said negro from his master, and to transmit him to the island from which he came in the West Indies, to be there as a free negro; subject, however, to the direction of the protector of negroes, relatively to his behaviour and employment.

Extraordinary abilities to be encouraged.

20. And it is hereby enacted and provided, that any planter or owner of negroes, not being of the church of England, and not choosing to send his negroes to attend divine service in manner by this act directed, shall give, jointly or severally as the case shall require, security to the protector of negroes, that a competent minister of some christian church or congregation, shall be provided for the due instruction of the negroes, and for their performing divine service according to the description of the religion of the master or masters, in some church or house thereto allotted, in the manner and with the regulations in this act prescribed, with regard to the exercise of religion according to the Church of England.

Negroes of dissenters:

Provided always, that the marriages of the said negroes belonging to dissenters, shall be celebrated only in the church of the said district, and that a register of the births shall be transmitted to the minister of the said district.

their marriages, &c. to be registered.

21. And whereas a state of matrimony and the government of a family is a principal means of forming men to a fitness for freedom, and to become good citizens; Be it enacted, that all negro men and women, above eighteen years of age, for the man, and sixteen for the woman, who have cohabited together for twelve months or upwards, or shall cohabit for the same time, and have a child or children, shall be deemed to all intents and purposes to be married; and either of the parties is authorized to require of the ministers of the district, to be married in the face of the church. Regulations concerning marriage.

22. And be it enacted, that from and after the —— of ——, all negro men in an healthy condition, and so reported to be, in case the same is denied, by a surgeon and by an inspector of negroes, and being twenty-one years old or upwards until fifty, and not being before married, shall on requisition of the inspectors, be provided by their masters or overseers with a woman not having children living, and not exceeding the age of the man; nor in any case exceeding the age of twenty-five years; and such persons shall be married publicly in the face of the church. Concerning the same.

23. And be it enacted, that if any negro shall refuse a competent marriage tendered to him, and shall not demand another specifically, such as it may be in his master's power to provide, the master or overseer shall be authorized to constrain him by an increase of work, or a lessening of allowance. Concerning the same.

24. And be it enacted, that the minister in each district shall have, with the assent of the inspector, full power and authority to punish all acts of adultery, unlawful concubinage and fornication, amongst negroes, on hearing and a summary process, by ordering a number of blows, not exceeding ———— for each offence; and if any white person shall be proved, on information, in the supreme court, to be exhibited by the protector of negroes, to have committed adultery with any negro woman, or to have corrupted any negro woman under sixteen years of age, he shall be fined in the sum of ————, and shall be for ever disabled from serving the office of overseer of negroes, or being attorney to any plantation. Adultery, and how to be punished.

25. And be it enacted, that no slaves shall be compelled to do any work for their masters for [three] days after their marriage. Concerning marriage.

Concerning pregnant women.

26. And be it enacted, that no woman shall be obliged to field work, or any other laborious work, for one month before her delivery, or for six weeks afterwards.

Separation of husband and wife, and children, to be avoided. Concerning the same.

27. And be it enacted, that no husband and wife shall be sold separately, if originally belonging to the same master, nor shall any children, under sixteen, be sold separately from their parents, or one parent, if one be living.

28. And be it enacted, that if an husband and wife, which before their intermarriage belonged to different owners, shall be sold, they shall not be sold at such a distance as to prevent mutual help and cohabitation; and of this distance the minister shall judge, and his certificate of the inconvenient distance shall be valid, so as to make such sale unlawful, and to render the same null and void.

Negroes not to work on Saturday afternoon or Sunday.

29. And be it enacted, that no negro shall be compelled to work for his owner at field work, or any service relative to a plantation, or to work at any handicraft trade, from eleven o'clock on Saturday forenoon, until the usual working hour on Monday morning.

Other cases of exemption from labour.

30. And whereas habits of industry and sobriety, and the means of acquiring and preserving property, are proper and reasonable preparatives to freedom, and will secure against an abuse of the same; Be it enacted, that every negro man who shall have served ten years, and is thirty years of age and is married, and has had two children born of any marriage, shall obtain the whole of Saturday, for himself and his wife and for his own benefit; and after thirty-seven years of age, the whole of Friday, for himself and his wife; provided that in both cases the minister of the district and the inspector of negroes shall certify, that they know nothing against his peaceable, orderly, and industrious behaviour.

Huts and land to be appropriated.

31. And be it enacted, that the master of every plantation shall provide the materials of a good and substantial hut for each married field negro; and if his plantation shall exceed —— acres, he shall allot to the same a portion of land not less than ————; and the said hut and land shall remain and stand annexed to the said negro, for his natural life, or during his bondage; but the same shall not be alienated without the consent of the owners.

32. And be it enacted, that it shall not be lawful for the owner of any negro, by himself or any other, to take from him any land, house, cattle, goods or money, acquired by the said negro, whether by purchase, donation or testament, whether the same has been derived from the owner of the said negro, or any other. Property of negroes secured.

33. And be it enacted, that if the said negro shall die possessed of any lands, goods or chattels, and dies without leaving a wife or issue, it shall be lawful for the said negro to devise or bequeath the same by his last will; but in case the said negro shall die intestate, and leave a wife and children, the same shall be distributed amongst them, according to the usage under the statute commonly called The Statute of Distributions. But if the said negro shall die intestate without wife or children, then and in that case his estate shall go to the fund provided for the better execution of this act.

34. And be it enacted, that no negro who is married, and hath resided upon any plantation for twelve months, shall be sold either privately or by the decree of any court, but along with the plantation on which he hath resided, unless he should himself request to be separated therefrom. Of the punishment of negroes.

35. And be it enacted, that no blows or stripes exceeding thirteen shall be inflicted for one offence upon any negro, without the order of one of his majesty's justices of peace.

36. And it is enacted, that it shall be lawful for the protector of negroes, as often as on complaint and hearing he shall be of opinion that any negro hath been cruelly and inhumanly treated, or when it shall be made to appear to him that an overseer hath any particular malice, to order, at the desire of the suffering party, the said negro to be sold to another master. Of the same.

37. And be it enacted, that in all cases of injury to member or life, the offences against a negro shall be deemed and taken to all intents and purposes as if the same were perpetrated against any of his majesty's subjects; and the protector of negroes, on complaint, or if he shall receive credible information thereof, shall cause an indictment to be presented for the same; and in case of suspicion of any murder of a negro, an inquest by the coronor, or officer acting as such, shall, if practicable, be held into the same.

Of the manumission of negroes

38. And in order to a gradual manumission of slaves, as they shall seem fitted to fill the offices of freemen, Be it enacted, that every negro slave being thirty years of age and upwards, and who has had three children born to him in lawful matrimony, and who hath received a certificate from the minister of his district, or any other christian teacher, of his regularity in the duties of religion, and of his orderly and good behaviour, may purchase, at rates to be fixed by two justices of peace, the freedom of himself, or his wife or children, or of any of them separately, valuing the wife and children, if purchased into liberty by the father of the family, at half only of their marketable values; provided that the said father shall bind himself in a penalty of —— for the good behaviour of his children.

Of the same

39. And be it enacted, that it shall be lawful for the protector of negroes to purchase the freedom of any negro, who shall appear to him to excel in any mechanical art or other knowledge or practice deemed liberal, and the value shall be settled by a jury.

Free negroes how to be punished.

40. And be it enacted, that the protector of negroes shall be, and is authorized and required to act as a magistrate, for the coercion of all idle, disobedient, or disorderly free negroes, and he shall by office prosecute them for the offences of idleness, drunkenness, quarrelling, gaming, or vagrancy, in the supreme court, or cause them to be prosecuted before one justice of peace, as the case may require.

Of the same.

41. And be it enacted, that if any free negro hath been twice convicted for any of the said misdemeanors, and is judged by the said protector of negroes, calling to his assistance two justices of the peace, to be incorrigibly idle, dissolute and vicious, it shall be lawful, by the order of the said protector and two justices of peace, to sell the said free negro into slavery; the purchase money to be paid to the person so remanded into servitude, or kept in hand by the protector and governor, for the benefit of his family.

Governor to receive and transmit annual reports.

42. And be it enacted, that the governor in each colony shall be assistant to the execution of this act, and shall receive the reports of the protector, and such other accounts as he shall judge material relative thereto, and shall transmit the same annually to one of his majesty's principal secretaries of state.

TO

THE CHAIRMAN

OF

THE BUCKINGHAMSHIRE MEETING,*

Held on the 13th April, 1780, at Aylesbury.

SIR,

HAVING heard yesterday by mere accident, that there is an intention of laying before the county meeting *new matter which is not contained in our petition*, and the consideration of which had been deferred to a fitter time by a majority of our committee in London; permit me to take this method of submitting to you my reasons for thinking, with our committee, that nothing ought to be hastily determined upon the subject.

Our petition arose naturally from distresses which we *felt*; and the requests, which we made, were in effect nothing more, than that such things should be done in parliament, as it was evidently the duty of parliament to do. But the affair, which will be proposed to you by a person of rank and ability, is an alteration in the constitution of parliament itself. It is impossible for you to have a subject before you of more importance, and that requires a more cool and more mature consideration; both on its own account, and for the credit of our sobriety of mind who are to resolve upon it.

The county will, in some way or other, be called upon to declare it your opinion, that the house of commons is not sufficiently numerous, and that the elections are not sufficiently frequent. That an hundred new knights of the shire ought to be added; and that we are to have a new election once in three years for certain, and as much oftener as the king pleases.

* The meeting of the freeholders of the county of Buckingham, which occasioned the following letter, was called for the purpose of taking into consideration a petition to parliament, for shortening the duration of parliaments, and for a more equal representation of the people in the house of commons.

Such will be the state of things if the proposition made shall take effect.

All this may be proper. But, as an honest man, I cannot possibly give my vote for it until I have considered it more fully. I will not deny, that our constitution may have faults; and that those faults, when found, ought to be corrected; but, on the whole, that constitution has been our own pride, and an object of admiration to all other nations. It is not every thing which appears at first view to be faulty in such a complicated plan, that is to be determined to be so in reality. To enable us to correct the constitution, the whole constitution must be viewed together; and it must be compared with the actual state of the people, and the circumstances of the time. For, that which, taken singly and by itself, may appear to be wrong, when considered with relation to other things may be perfectly right; or at least such as ought to be patiently endured, as the means of preventing something that is worse. So far with regard to what at first view may appear a *distemper* in the constitution. As to the *remedy* of that distemper, an equal caution ought to be used; because this latter consideration is not single and separate, no more than the former. There are many things in reformation which would be proper to be done, if other things can be done along with them; but which, if they cannot be so accompanied, ought not to be done at all. I therefore wish, when any new matter of this deep nature is proposed to me, to have the whole scheme distinctly in my view, and full time to consider of it. Please God, I will walk with caution, whenever I am not able clearly to see my way before me.

I am now growing old. I have from my very early youth been conversant in reading and thinking upon the subject of our laws and constitution, as well as upon those of other times, and other countries. I have been for fifteen years a very laborious member of parliament; and in that time have had great opportunities of seeing with my own eyes the working of the machine of our government; and remarking where it went smoothly and did its business, and where it checked in its movements, or where it damaged its work. I have also had and used the opportunities of conversing with men of the greatest wisdom and fullest experience in those matters; and I do declare to you most solemnly and most truly, that on the result of all this reading, thinking, experience, and communication, I am not able to come to an immediate resolution in favour of a change of the groundwork of our constitution; and in particular, that in the present state of the country, in the present state of our

representation, in the present state of our rights and modes of electing, in the present state of the several prevalent interests, in the present state of the affairs and manners of this country, that the addition of an hundred knights of the shire, and hurrying election on election, will be things advantageous to liberty or good government.

This is the present condition of my mind; and this is my apology for not going as fast as others may choose to go in this business. I do not by any means reject the propositions—much less do I condemn the gentlemen who, with equal good intentions, with much better abilities, and with infinitely greater personal weight and consideration than mine, are of opinion that this matter ought to be decided upon instantly.

I most heartily wish, that the deliberate sense of the kingdom on this great subject should be known. When it is known, it *must* be prevalent. It would be dreadful indeed, if there was any power in the nation capable of resisting its unanimous desire, or even the desire of any very great and decided majority of the people. The people may be deceived in their choice of an object. But I can scarcely conceive any choice they can make to be so very mischievous as the existence of any human force capable of resisting it. It will certainly be the duty of every man in the situation to which God has called him, to give his best opinion and advice upon the matter; it will *not* be his duty, let him think what he will, to use any violent or any fraudulent means of counteracting the general wish, or even of employing the legal and constructive organ of expressing the people's sense against the sense which they do actually entertain.

In order that the real sense of the people should be known upon so great an affair as this, it is of absolute necessity that timely notice should be given. That the matter should be prepared in open committees; from a choice into which no class or description of men is to be excluded—and the subsequent county meetings should be as full and as well attended as possible. Without these precautions the true sense of the people will ever be uncertain. Sure I am, that no precipitate resolution on a great change in the fundamental constitution of any country can ever be called the real sense of the people.

I trust it will not be taken amiss, if as an inhabitant and freeholder of this county (one indeed among the most inconsiderable) I assert my right of dissenting (as I do dissent fully and directly) from any resolution whatsoever on the subject of an alteration in the representation and election of the kingdom

at this time. By preserving this right, and exercising it with temper and moderation, I trust I cannot offend the noble proposer, for whom no man professes, or feels, more respect and regard than I do. A want of concurrence in *every thing* which *can* be proposed, will in no sort weaken the energy or distract the efforts of men of upright intentions, upon those points in which they are agreed. Assemblies that are met, and with a resolution to be all of a mind, are assemblies that can have no opinion at all of their own. The first proposer of any measure must be their master. I do not know that an amicable variety of sentiment, conducted with mutual good will, has any sort of resemblance to discord; or that it can give any advantage whatsoever to the enemies of our common cause. On the contrary, a forced and fictitious agreement (which every universal agreement must be) is not becoming the cause of freedom. If, however, any evil should arise from it (which I confess I do not foresee,) I am happy that those who have brought forward new and arduous matter, when very great doubts, and some diversity of opinion must be foreknown, are of authority and weight enough to stand against the consequences.

I humbly lay these my sentiments before the county. They are not taken up to serve any interests of my own, or to be subservient to the interests of any man or set of men under heaven. I could wish to be able to attend our meeting, or that I had time to reason this matter more fully by letter; but I am detained here upon our business. What you have already put upon us is as much as we can do. If we are prevented from going through it with any effect, I fear it will be in part owing, not more to the resistance of the enemies of our cause, than to our imposing on ourselves such tasks as no human faculties, employed as we are, can be equal to. Our worthy members have shown distinguished ability and zeal in support of our petition. I am just going down to a bill brought in to frustrate a capital part of your desires. The minister is preparing to transfer the cognizance of the public accounts from those whom you and the constitution have chosen to controul them, to unknown persons, creatures of his own. For so much he annihilates parliament.

I have the honour, &c.

EDMUND BURKE.

Charles-street,
12th April, 1780.

TRACTS,

RELATIVE TO

THE LAWS AGAINST POPERY IN IRELAND.*

I.

Fragments of a Tract on the Popery Laws.

THE PLAN.

I PROPOSE first to make an Introduction, in order to show the propriety of a closer inspection into the affairs of Ireland; and this takes up the first chapter; which is to be spent in this introductory matter, and in stating the popery laws in general as one leading cause of the imbecility of the country.

Ch. II. states particularly the laws themselves, in a plain and popular manner.

Ch. III. begins the remarks upon them, under the heads of, 1st. The Object, which is a numerous people. 2dly. Their means, a restraint on Property. 3dly. Their instruments of

* The condition of the Roman catholics in Ireland appears to have engaged the attention of Mr. Burke at a very early period of his political life. It was probably soon after the year 1765 that he formed the plan of a work upon that subject, the fragments of which are now given to the public. No title is prefixed to it in the original manuscript; and the *plan*, which it has been thought proper to insert here, was evidently designed merely for the convenience of the author. Of the first chapter some unconnected fragments only, too imperfect for publication, have been found. Of the second, there is a considerable portion, perhaps nearly the whole; but the copy, from which it is printed, is evidently a first rough draught. The third chapter, as far as it goes, is taken from a fair corrected copy; but the end of the second part of the first head is left unfinished; and the discussion of the second and third heads was either never entered upon, or the manuscript containing it has unfortunately been lost. What follows the third chapter appears to have been designed for the beginning of the fourth, and is evidently the first rough draught; and to this we have added a fragment, which appears to have been a part either of this or the first chapter.

In the volume with which it is intended to close this posthumous publication of Mr. Burke's Works, we shall have occasion to enter into a more particular account of the part which he took in the discussion of this great political question. At present it may suffice to say, that the letter to Mr. Smith, the second letter to Sir Hercules Langrish, and the letter to his son, which here follow in order the fragment on the popery laws, are the only writings upon this subject found amongst his papers in a state fit to appear in this stage of the publication.

What remain are some small fragments of the tract, and a few letters containing no new matter of importance.

execution, corrupted morals; which affect the national prosperity.

Ch. IV. The impolicy of those laws as they affect the national security.

Ch. V. Reasons by which the laws are supported, and answers to them.

CHAP. II.

In order to lay this matter with full satisfaction before the reader, I shall collect into one point of view, and state as shortly and as clearly as I am able, the purport of these laws, according to the objects which they affect, without making at present any further observation upon them but just what shall be necessary to render the drift and intention of the legislature, and the tendency and operation of the laws, the more distinct and evident.

I shall begin with those which relate to the possession and inheritance of landed property in popish hands. The first operation of those acts upon this object was, wholly to change the course of descent by the common law; to take away the right of primogeniture; and, in lieu thereof, to substitute and establish a new species of statute gavelkind. By this law, on the death of a papist possessed of an estate in fee simple or in fee tail, the land is to be divided by equal portions between all the male children; and those portions are likewise to be parcelled out, share and share alike, amongst the descendants of each son, and so to proceed in a similar distribution *ad infinitum*. From this regulation, it was proposed that some important consequences should follow; First, By taking away the right of primogeniture, perhaps in the very first generation, certainly in the second, the families of papists, however respectable, and their fortunes, however considerable, would be wholly dissipated, and reduced to obscurity and indigence, without any possibility that they should repair them by their industry or abilities; being, as we shall see anon, disabled from every species of permanent acquisition. Secondly, By this law, the right of testamentation is taken away, which the inferior tenures had always enjoyed; and all tenures from the 27th Hen. 8th. Thirdly, The right of settlement was taken away, that no such persons should, from the moment the act passed, be enabled to advance themselves in fortune or connection by marriage, being disabled from making any disposition in consideration of such marriage, but what the law had previously regulated; the reputable establishment of the eldest son, as representative of the family, or to settle a jointure, being com-

monly the great object in such settlements, which was the very power which the law had absolutely taken away. The operation of this law, however certain, might be too slow. The present possessors might happen to be long lived. The legislature knew the natural impatience of expectants, and upon this principle they gave encouragement to children to anticipate the inheritance. For it is provided, that the eldest son of any papist shall, immediately on his conformity, change entirely the nature and properties of his father's legal estate; if he before held in fee simple, or in other words, had the entire and absolute dominion over the land, he is reduced to an estate for his life only, with all the consequences of the natural debility of that estate; by which he becomes disqualified to sell, mortgage, charge, (except for his life,) or in any wise to do any act by which he may raise money for relief in his most urgent necessities. The eldest son so conforming, immediately acquires, and in the life-time of his father, the permanent part, what our law calls the reversion and inheritance of the estate, and he discharges it by retrospect; and annuls every sort of voluntary settlement made by the father ever so long before his conversion. This he may sell or dispose of immediately, and alienate it from the family for ever.

Having thus reduced his father's estate, he may also bring his father into the court of chancery, where he may compel him to swear to the value of his estate; and to allow him out of that possession (which had been before reduced to an estate for life) such an immediate annual allowance as the lord chancellor or lord keeper shall judge suitable to his age and quality.

This indulgence is not confined to the eldest son. The other children likewise, by conformity, may acquire the same privileges, and in the same manner force from their father an immediate and independent maintenance. It is very well worth remarking, that the statutes have avoided to fix any determinate age, for these emancipating conversions; so that the children, at any age, however incapable of choice in other respects, however immature or even infantine, are yet considered sufficiently capable to disinherit their parents, and totally to subtract themselves from their direction and control, either at their own option, or by the instigation of others. By this law, the tenure and value of a Roman catholic, in his real property, is not only rendered extremely limited, and altogether precarious; but the paternal power is in all such families so enervated, that it may well be considered as entirely taken away; even the principle upon which it is founded seems to be directly reversed. However, the legislature feared that enough was not yet done upon

this head; the Roman catholic parent, by selling his real estate, might in some sort preserve the dominion over his substance and his family, and thereby evade the operation of these laws, which intended to take away both. Besides, frequent revolutions and many conversions had so broken the landed property of papists in that kingdom, that it was apprehended that this law could have in a short time but a few objects upon which it would be capable of operating.

To obviate these inconveniences, another law was made, by which the dominion of children over their parents was extended universally throughout the whole popish part of the nation, and every child of every popish parent was encouraged to come into what is called a Court of Equity, to prefer a bill against his father, and compel him to confess upon oath the quantity and value of his substance, personal as well as real, of what nature soever, or howsoever it might be employed; upon which discovery the court is empowered to seize upon and allocate for the immediate maintenance of such child or children, any sum not exceeding a third of the whole fortune; and as to their future establishment on the death of the father, no limits are assigned; the chancery may, if it thinks fit, take the whole property, personal as well as real, money, stock in trade, &c. out of the power of the possessor, and secure it in any manner they judge expedient for that purpose; for the act has not assigned any sort of limit with regard to the quantity which is to be charged, or given any direction concerning the means of charging and securing it: a law which supersedes all observation.

But the law is still more extensive in its provision; because there was a possibility that the parent, though sworn, might by false representations evade the discovery of the ultimate value of his estate, a new bill may be at any time brought, by one, any, or all of the children, for a further discovery; his effects are to undergo a fresh scrutiny, and a new distribution is to be made in consequence of it. So that the parent has no security against perpetual inquietude, and the reiteration of chancery suits, but by (what is somewhat difficult for human nature to comply with) fully and without reserve abandoning his whole property to the discretion of the court, to be disposed of in favour of such children.

But is this enough, and has the parent purchased his repose by such a surrender? Very far from it. The law expressly and very carefully provides that he shall not; before he can be secure from the persecution of his children, it requires another and a much more extraordinary condition; the children are author-

ized, if they can find that their parent has by his industry or otherwise increased the value of his property since their first bill, to bring another, compelling a new account of the value of his estate, in order to a new distribution proportioned to the value of the estate at the time of the new bill preferred. They may bring such bills, *toties quoties*, upon every improvement of his fortune, without any sort of limitation of time, or regard to the frequency of such bills, or to the quantity of the increase of the estate, which shall justify the bringing them. This act expressly provides, that he shall have no respite from the persecution of his children, but by totally abandoning all thoughts of improvement and acquisition.

This is going a great way, surely; but the laws in question have gone much further; not satisfied with calling upon children to revolt against their parents, and to possess themselves of their substance, there are cases where the withdrawing of the child from his father's obedience is not left to the option of the child himself; for if the wife of a Roman catholic should choose to change her religion, from that moment she deprives her husband of all management and direction of his children, and even of all the tender satisfaction which a parent can feel in their society, and which is the only indemnification he can have for all his cares and sorrows; and they are to be torn for ever, at the earliest age, from his house and family; for the lord chancellor is not only authorized, but he is strongly required to take away all his children from such popish parent, to appoint where, in what manner, and by whom they are to be educated; and the father is compelled to pay, not for the ransom, but for the deprivation of his children; and to furnish such a sum as the chancellor thinks proper to appoint for their education, to the age of eighteen years. The case is the same if the husband should be the conformist; though how the law is to operate in this case I do not see. For the act expressly says, that the child shall be taken from such popish parent. And whilst such husband and wife cohabit, it will be impossible to put it into execution without taking the child from one as well as from the other; and then the effect of the law will be, that if either husband or wife becomes protestant, both are to be deprived of their children.

The paternal power thus being wholly abrogated, it is evident that by the last regulation, the power of an husband over his wife is also considerably impaired; because if it be in her power whenever she pleases to subtract the children from his protection and obedience, she herself by that hold inevitably acquires a power and superiority over her husband.

But she is not left dependent upon this oblique influence; for if in any marriage settlement the husband has reserved to him a power of making a jointure, and he dies without settling any, her conformity executes his powers; and executes them in as large extent as the chancellor thinks fit. The husband is deprived of that coercive power over his wife which he had in his hands, by the use he might make of the discretionary power reserved in the settlement.

But if no such power had been reserved, and no such settlement existed, yet if the husband dies leaving his conforming wife without a fixed provision by some settlement on his real estate, his wife may apply to chancery, where she shall be allotted a portion from his leases and other personal estate, not exceeding one-third of his whole clear substance. The laws in this instance, as well as in the former, have presumed that the husband has omitted to make all the provision which he might have done, for no other reason than that of her religion. If therefore she chooses to balance any domestic misdemeanors to her husband, by the public merit of conformity to the protestant religion, the law will suffer no plea of such misdemeanors to be urged on the husband's part, nor proof of that kind to be entered into. She acquires a provision totally independent of his favour, and deprives him of that source of domestic authority which the common law had left to him, that of rewarding, or punishing, by a voluntary distribution of his effects, what in his opinion was the good or ill behaviour of his wife.

Thus the laws stand with regard to the property already acquired, to its mode of descent, and to family powers. Now as to the new acquisition of real property, and both to the acquisition and security of personal, the law stands thus:

All persons of that persuasion are disabled from taking or purchasing directly, or by a trust, any lands, any mortgage upon land, any rents or profits from land, any lease, interest, or term of any land; any annuity for life or lives, or years, or any estate whatsoever, chargeable upon or which may in any manner affect any lands.

One exception, and one only, is admitted by the statutes, to the universality of this exclusion, viz. a lease for a term not exceeding thirty-one years. But even this privilege is charged with a prior qualification. This remnant of a right is doubly curtailed; 1st. That on such a short lease, a rent not less than two-thirds of the full improved yearly value at the time of the making it, shall be reserved during the whole continuance of the term; and 2dly, It does not extend to the whole kingdom. This lease must also be in possession, and not in reversion. If

any lease is made exceeding in either duration or value, and in the smallest degree, the above limits, the whole interest is forfeited, and vested ipso facto in the first protestant discoverer or informer. This discoverer, thus invested with the property, is enabled to sue for it as his own right. The courts of law are not alone open to him, he may (and this is the usual method) enter into either of the courts of equity, and call upon the parties and those whom he suspects to be their trustees, upon oath and under the penalties of perjury, to discover against themselves the exact nature and value of their estates in every particular, in order to induce their forfeiture on the discovery. In such suits the informer is not liable to those delays which the ordinary procedure of those courts throws into the way of the justest claimant, nor has the papist the indulgence which he allows to the most fraudulent defendant; that of plea and demurrer. But the defendant is obliged to answer the whole directly upon oath. The rule of favores ampliandi, &c. is reversed by this act, lest any favour should be shown, or the force and operation of the law in any part of its progress be enervated. All issues to be tried on this act, are to be tried by none but known protestants.

It is here necessary to state as a part of this law, what has been for some time generally understood as a certain consequence of it. The act had expressly provided, that a papist could possess no sort of estate which might affect land (except as before excepted.) On this a difficulty did, not unnaturally, arise. It is generally known, a judgment being obtained or acknowledged for any debt since the statute of Westm. 2. 13 Ed. I. c. 18. one half of the debtor's land is to be delivered unto the creditor until the obligation is satisfied, under a writ called Elegit, and this writ has been ever since the ordinary assurance of the land, and the great foundation of general credit in the nation. Although the species of holding under this writ is not specified in the statute, the received opinion, though not juridically delivered, has been, that if they attempt to avail themselves of that security, because it may create an estate however precarious in land, their whole debt or charge is forfeited, and becomes the property of the protestant informer. Thus you observe, first, that by the express words of the law, all possibility of acquiring any species of valuable property, in any sort connected with land, is taken away; and, secondly, by the construction, all security for money is also cut off. No security is left, except what is merely personal, and which therefore most people who lend money would, I believe, consider as none at all.

Under this head of the acquisition of property, the law meets them in every road of industry, and in its direct and consequential provisions throws almost all sorts of obstacles in their way. For they are not only excluded from all offices in church and state, which, though a just and necessary provision, is yet no small restraint in the acquisition; but they are interdicted from the army and the law, in all its branches. This point is carried to so scrupulous a severity, that chamber practice, and even private conveyancing, the most voluntary agency, are prohibited to them, under the severest penalties, and the most rigid modes of inquisition. They have gone beyond even this; for every barrister, six clerk, attorney, or solicitor, is obliged to take a solemn oath, not to employ persons of that persuasion; no, not as hackney clerks, at the miserable salary of seven shillings a week. No tradesman of that persuasion is capable, by any service or settlement, to obtain his freedom in any town corporate; so that they trade and work in their own native towns as aliens, paying as such quarterage and other charges and impositions. They are expressly forbidden, in whatever employment, to take more than two apprentices, except in the linen manufacture only.

In every state, next to the care of the life and properties of the subject, the education of their youth has been a subject of attention. In the Irish laws this point has not been neglected. Those who are acquainted with the constitution of our universities need not be informed that none but those who conform to the established church can be at all admitted to study there, and that none can obtain degrees in them who do not previously take all the tests, oaths, and declarations. Lest they should be enabled to supply this defect by private academies and schools of their own, the law has armed itself with all its terrors against such a practice. Popish schoolmasters of every species are proscribed by those acts, and it is made felony to teach even in a private family: so that papists are entirely excluded from an education in any of our authorized establishments for learning at home. In order to shut up every avenue to instruction, the act of King William in Ireland has added to this restraint, by precluding them from all foreign education. This act is worthy of attention on account of the singularity of some of its provisions. Being sent for education to any popish school or college abroad, upon conviction, incurs (if the party sent has any estate of inheritance) a kind of unalterable and perpetual outlawry. The tender and incapable age of such a person, his natural subjection to the will of others, his necessary unavoidable ignorance of the laws, stands for nothing in his fa-

vour. He is disabled to sue in law or equity; to be guardian, executor, or administrator: he is rendered incapable of any legacy or deed of gift; he forfeits all his goods and chattels for ever, and he forfeits for his life all his lands, hereditaments, offices, and estate of freehold, and all trusts, powers, or interests therein.

All persons concerned in sending them or maintaining them abroad, by the least assistance of money or otherwise, are involved in the same disabilities, and subjected to the same penalties.

The mode of conviction is as extraordinary as the penal sanctions of this act. A justice of peace, upon information that any child is sent away, may require to be brought before him all persons charged or even suspected of sending or assisting, and examine them and other persons on oath concerning the fact. If on this examination he finds it *probable* that the party was sent contrary to this act, he is then to bind over the parties and witness, in any sum he thinks fit, but not less than two hundred pounds, to appear and take their trial at the next quarter sessions. Here the justices are to re-examine evidence, until they arrive, as before, to what shall appear to them a probability. For the rest, they resort to the accused;—if they can prove that any person, or any money, or any bill of exchange, has been sent abroad by the party accused, they throw the proof upon him, to show for what innocent purposes it was sent; and on failure of such proof, he is subjected to all the above-mentioned penalties. Half the forfeiture is given to the crown; the other half goes to the informer.

It ought here to be remarked, that this mode of conviction not only concludes the party has failed in his expurgatory proof; but it is sufficient also to subject to the penalties and incapacities of the law the infant upon whose account the person has been so convicted. It must be confessed, that the law has not left him without some species of remedy in this case, apparently of much hardship, where one man is convicted upon evidence given against another, if he has the good fortune to live: for, within a twelvemonth after his return, or his age of twenty-one, he has a right to call for a new trial, in which he also is to undertake the negative proof, and to show, by sufficient evidence, that he has not been sent abroad against the intention of the act. If he succeeds in this difficult exculpation, and demonstrates his innocence to the satisfaction of the court, he forfeits all his goods and chattels, and all the profits of his lands incurred and received before such acquittal; but he is freed from all other forfeitures, and from all subsequent incapacities.

There is also another method allowed by the law in favour of persons under such unfortunate circumstances, as in the former case for their innocence, in this upon account of their expiation; if within six months after their return, with the punctilious observation of many ceremonies, they conform to the established church, and take all the oaths and subscriptions, the legislature, in consideration of the incapable age in which they were sent abroad, of the merit of their early conformity, and to encourage conversions, only confiscates, as in the former case, the whole personal estate, and the profits of the real; in all other respects, restoring and rehabilitating the party.

So far as to property and education. There remain some other heads, upon which the acts have changed the course of the common law; and first, with regard to the right of self-defence, which consists in the use of arms. This, though one of the rights by the law of nature, yet is so capable of abuses, that it may not be unwise to make some regulations concerning them; and many wise nations have thought proper to set several restrictions on this right, especially temporary ones, with regard to suspected persons, and on occasion of some imminent danger to the public from foreign invasion or domestic commotions.

But provisions in time of trouble proper and perhaps necessary, may become in time of profound peace a scheme of tyranny. The method which the statute law of Ireland has taken upon this delicate article is, to get rid of all difficulties at once, by an universal prohibition to all persons, at all times, and under all circumstances, who are not protestants, of using or keeping any kind of weapons whatsoever. In order to enforce this regulation, the whole spirit of the common law is changed; very severe penalties are enjoined; the largest powers are vested in the lowest magistrates. Any two justices of peace, or magistrates of a town, with or without information, at their pleasure, by themselves or their warrant, are empowered to enter and search the house of any papist, or even of any other person whom they suspect to keep such arms in trust for them. The only limitation to the extent of this power is, that the search is to be made between the rising and setting of the sun; but even this qualification extends no farther than to the execution of the act in the open country; for in all cities and their suburbs, in towns corporate and market towns, they may, at their discretion, and without information, break open houses, and institute such search at any hour of the day or night. This I say they may do, at their discretion, and it seems a pretty ample power in the hands of such magistrates. However, the matter does

by no means totally rest on their discretion. Beside the discretionary and occasional search, the statute has prescribed one that is general and periodical. It is to be made annually, by the warrant of the justices at their midsummer quarter sessions, by the high and petty constables, or any others whom they may authorize, and by all corporate magistrates, in all houses of papists, and every other, where they suspect arms for the use of such persons to be concealed, with the same powers, in all respects which attend the occasional search. The whole of this regulation, concerning both the general and particular search, seems to have been made by a legislature which was not at all extravagantly jealous of personal liberty. Not trusting, however, to the activity of the magistrate acting officially, the law has invited all voluntary informers, by considerable rewards, and even pressed involuntary informers into this service by the dread of heavy penalties. With regard to the latter method, two justices of peace, or the magistrate of any corporation, are empowered to summon before them any persons whatsoever, to tender them an oath, by which they oblige them to discover all persons who have any arms concealed contrary to law. Their refusal or declining to appear, or, appearing, their refusal to inform, subjects them to the severest penalties. If peers or peeresses are summoned (for they may be summoned by the bailiff of a corporation of six cottages) to perform this honourable service, and refuse to inform, the first offence is 300*l.* penalty; the second is premunire, that is to say imprisonment for life, and forfeiture of all their goods. Persons of an inferior order are, for the first offence, fined 30*l.* for the second, they too are subjected to premunire. So far as to involuntary; now, as to voluntary informers, the law entitles them to half the penalty incurred by carrying or keeping arms; for, on conviction of this offence, the penalty upon persons, of whatever substance, is the sum of 50*l.* and a year's imprisonment, which cannot be remitted even by the crown.

The only exception to this law, is a license from the lord lieutenant and council to carry arms, which by its nature is extremely limited, and I do not suppose that there are six persons now in the kingdom who have been fortunate enough to obtain it.

There remains, after this system concerning property and defence, to say something concerning the exercise of religion, which is carried on in all persuasions, but especially in the Romish, by persons appointed for that purpose. The law of King William and Queen Anne ordered all popish parsons exercising ecclesiastical jurisdiction, all orders of monks and friars, and

all priests not then actually in parishes and to be registered, to be banished the kingdom; and if they should return from exile, to be hanged, drawn, and quartered. Twenty pounds reward is given for apprehending them. Penalty on harbouring and concealing.

As all the priests then in being and registered are long since dead, and as these laws are made perpetual, every popish priest is liable to the law. The reader has now before him a tolerably complete view of the popery laws relative to property by descent or acquisition, to education, to defence, and to the free exercise of religion, which may be necessary to enable him to form some judgment of the spirit of the whole system, and of the subsequent reflections that are to be made upon it.

CHAPTER III.

PART I.

The system which we have just reviewed, and the manner in which religious influence on the public is made to operate upon the laws concerning property in Ireland, is in its nature very singular, and differs, I apprehend, essentially, and perhaps to its disadvantage, from any scheme of religious persecution now existing in any other country in Europe, or which has prevailed in any time or nation with which history has made us acquainted. I believe it will not be difficult to show that it is unjust, impolitic, and inefficacious; that it has the most unhappy influence on the prosperity, the morals, and the safety of that country; that this influence is not accidental, but has flowed as the necessary and direct consequence of the laws themselves, first on account of the object which they affect, and next by the quality of the greatest part of the instruments they employ. Upon all these points, first upon the general, and then on the particular, this question will be considered, with as much order as can be followed in a matter of itself as involved and intricate as it is important.

The first and most capital consideration, with regard to this, as to every object, is the extent of it; and here it is necessary to premise, this system of penalty and incapacity has for its object no small sect or obscure party, but a very numerous body of men—a body which comprehends at least two-thirds of that whole nation; it amounts to 2,800,000 souls, a number

sufficient for the materials constituent of a great people. Now it is well worthy of a serious and dispassionate examination, whether such a system, respecting such an object, be in reality agreeable to any sound principles of legislation, or any authorized definition of law; for if our reasons or practices differ from the general informed sense of mankind, it is very moderate to say that they are at least suspicious.

This consideration of the magnitude of the object ought to attend us through the whole inquiry; if it does not always affect the reason, it is always decisive on the importance of the question. It not only makes in itself a more leading point, but complicates itself with every other part of the matter, giving every error, minute in itself, a character and significance from its application: it is therefore not to be wondered at, if we perpetually recur to it in the course of this essay.

In the making of a new law, it is undoubtedly the duty of the legislator to see that no injustice be done, even to an individual; for there is then nothing to be unsettled, and the matter is under his hands to mould it as he pleases; and if he finds it untractable in the working, he may abandon it without incurring any new inconvenience. But in the question concerning the repeal of an old one, the work is of more difficulty; because laws, like houses, lean on one another, and the operation is delicate and should be necessary; the objection, in such a case, ought not to arise from the natural infirmity of human institutions, but from substantial faults which contradict the nature and end of law itself; faults not arising from the imperfection, but from the misapplication and abuse of our reason. As no legislators can regard the *minima* of equity, a law may in some instances, be a just subject of censure, without being at all an object of repeal. But if its transgressions against common right and the ends of just government should be considerable in their nature and spreading in their effects, as this objection goes to the root and principle of the law, it renders it void in its obligatory quality on the mind, and therefore determines it as the proper object of abrogation and repeal, so far as regards its civil existence. The objection here is, as we observed, by no means on account of the imperfection of the law; it is on account of its erroneous principle; for if this be fundamentally wrong, the more perfect the law is made, the worse it becomes. It cannot be said to have the properties of genuine law, even in its imperfections and defects. The true weakness and opprobrium of our best general constitutions is, that they cannot provide beneficially for every particular case, and thus fill, adequately to their intentions, the circle of universal jus-

tice. But where the principle is faulty, the erroneous part of the law is the beneficial, and justice only finds refuge in those holes and corners which had escaped the sagacity and inquisition of the legislator. The happiness or misery of multitudes can never be a thing indifferent. A law against the majority of the people, is in substance a law against the people itself: its extent determines its invalidity; it even changes its character as it enlarges its operation: it is not particular injustice, but general oppression; and can no longer be considered as a private hardship which might be borne, but spreads and grows up into the unfortunate importance of a national calamity.

Now, as a law directed against the mass of the nation has not the nature of a reasonable institution, so neither has it the authority: for in all forms of government the people is the true legislator; and whether the immediate and instrumental cause of the law be a single person or many, the remote and efficient cause is the consent of the people, either actual or implied; and such consent is absolutely essential to its validity. To the solid establishment of every law two things are essentially requisite: first, a proper and sufficient human power to declare and modify the matter of the law; and next, such a fit and equitable constitution as they have a right to declare and render binding. With regard to the first requisite, the human authority, it is their judgment they give up, not their right. The people, indeed, are presumed to consent to whatever the legislature ordains for their benefit; and they are to acquiesce in it, though they do not clearly see into the propriety of the means by which they are conducted to that desirable end. This they owe as an act of homage and just deference to a reason which the necessity of government has made superior to their own. But though the means, and indeed the nature of a public advantage, may not always be evident to the understanding of the subject, no one is so gross and stupid as not to distinguish between a benefit and an injury. No one can imagine then, an exclusion of a great body of men, not from favours, privileges and trusts, but from the common advantages of society, can ever be a thing intended for their good, or can ever be ratified by any implied consent of theirs. If, therefore, at least an implied human consent is necessary to the existence of a law, such a constitution cannot in propriety be a law at all.

But if we could suppose that such a ratification was made, not virtually, but actually; by the people, not representatively, but even collectively; still it would be null and void.

They have no right to make a law prejudicial to the whole community, even though the delinquents, in making such an act, should be themselves the chief sufferers by it; because it would be made against the principle of a superior law, which it is not in the power of any community, or of the whole race of man, to alter—I mean the will of him who gave us our nature, and in giving impressed an invariable law upon it. It would be hard to point out any error more truly subversive of all the order and beauty, of all the peace and happiness of human society, than the position, that any body of men have a right to make what laws they please; or that laws can derive any authority from their institution, merely and independent of the quality of the subject matter. No arguments of policy, reason of state, or preservation of the constitution, can be pleaded in favour of such a practice. They may indeed impeach the frame of that constitution; but can never touch this immoveable principle. This seems to be indeed the doctrine which Hobbs broached in the last century, and which was then so frequently and so ably refuted. Cicero exclaims with the utmost indignation and contempt against such a notion;* he considers it not only as unworthy of a philosopher, but of an illiterate peasant; that of all things this was the most truly absurd, to fancy that the rule of justice was to be taken from the constitutions of commonwealths, or that laws derived their authority from the statutes of the people, the edicts of princes, or the decrees of judges. If it be admitted that it is not the black letter and the king's arms that makes the law, we are to look for it elsewhere.

In reality there are two, and only two, foundations of law; and they are both of them conditions without which nothing can give it any force; I mean equity and utility. With respect to the former, it grows out of the great rule of equality which is grounded upon our common nature, and which Philo, with propriety and beauty, calls the mother of justice. All human laws are, properly speaking, only declaratory; they may alter the mode and application, but have no power over the substance of original justice. The other foundation of law, which is utility, must be understood, not of partial or limited, but of general and public utility, connected in the same manner with, and derived directly from, our rational nature; for

* Cicero de Legibus, lib. prim. 15 et 16. O rem dignam, in quâ non modo docti, verum etiam agrestes erubescant! Jam vero illud stultissimum existimare omnia justa esse, quæ scita sunt in populorum institutis aut legibus, &c. Quod si populorum jussis, si principum decretis, si sententiis judicum jura constituerentur, jus esset latrocinari, jus adulterare, jus testamenta falsa supponere, si hæc suffragiis aut scitis multitudinis probarentur.

any other utility may be the utility of a robber, but cannot be that of a citizen; the interest of the domestic enemy, and not that of a member of the commonwealth. This present equality can never be the foundation of statutes which create an artificial difference between men, as the laws before us do, in order to induce a consequential inequality in the distribution of justice. Law is a mode of human action respecting society, and must be governed by the same rules of equity which govern every private action; and so Tully considers it in his offices, as the only utility agreeable to that nature; *unum debet esse omnibus propositum, ut eadem sit utilitas unius cujusq; et universorum, quam si ad se quisq; rapiat, dissolvetur omnis humana consortio.*

If any proposition can be clear in itself, it is this; that a law which shuts out from all secure and valuable property the bulk of the people, cannot be made for the utility of the party so excluded. This therefore is not the utility which Tully mentions. But if it were true (as it is not,) that the real interest of any part of the community could be separated from the happiness of the rest; still it would afford no just foundation for a statute providing exclusively for that interest at the expense of the other; because it would be repugnant to the essence of law, which requires that it be made as much as possible for the benefit of the whole. If this principle be denied or evaded, what ground have we left to reason on? We must at once make a total change in all our ideas, and look for a new definition of law. Where to find it, I confess myself at a loss. If we resort to the fountains of jurisprudence, they will not supply us with any that is for our purpose. *Jus* (says Paulus) *pluribus modis dicitur; uno modo, cum id, quod semper æquum et bonum est, Jus dicitur, ut est Jus naturale;* this sense of the word will not be thought, I imagine, very applicable to our penal laws. *Altero modo, quod omnibus aut pluribus in unaquaq; civitate utile est ut est Jus civile.* Perhaps this latter will be as insufficient, and would rather seem a censure and condemnation of the popery acts, than a definition that includes them; and there is no other to be found in the whole digest; neither are there any modern writers whose ideas of law are at all narrower.

It would be far more easy to heap up authorities on this article, than to excuse the prolixity and tediousness of producing any at all in proof of a point which, though too often practically denied, is in its theory almost self-evident. For Suarez, handling this very question, *utrum de ratione et substantia Legis esse ut propter commune bonum feratur,* does not hesi-

tate a moment, finding no ground, in reason or authority, to render the affirmative in the least degree disputable: *In questione ergo proposita* (says he) *nulla est inter authores controversia; sed omnium commune est axioma de substantia et ratione legis esse ut pro communi bono feratur ita ut propter illud precipue tradatur;* having observed, in another place, *contra omnem rectitudinem est bonum commune ad privatum ordinare, seu totum ad partem propter ipsum referre.* Partiality and law are contradictory terms. Neither the merits nor the ill deserts, neither the wealth and importance, nor the indigence and obscurity of the one part or of the other, can make any alteration in this fundamental truth. On any other scheme, I defy any man living to settle a correct standard, which may discriminate between equitable rule and the most direct tyranny. For if we can once prevail upon ourselves to depart from the strictness and integrity of this principle, in favour even of a considerable party, the argument will hold for one that is less so; and thus we shall go on, narrowing the bottom of public right, until step by step we arrive, though after no very long or very forced deduction, at what one of our poets calls the enormous faith; the faith of the many, created for the advantage of a single person. I cannot see a glimmering of distinction to evade it; nor is it possible to allege any reason for the proscription of so large a part of the kingdom, which would not hold equally to support, under parallel circumstances, the proscription of the whole.

I am sensible that these principles, in their abstract light, will not be very strenuously opposed. Reason is never inconvenient but when it comes to be applied. Mere general truths interfere very little with the passions. They can, until they are roused by a troublesome application, rest in great tranquillity side by side with tempers and proceedings the most directly opposite to them. Men want to be reminded, who do not want to be taught: because those original ideas of rectitude to which the mind is compelled to assent when they are proposed, are not always as present to it as they ought to be. When people are gone, if not into a denial, at least into a sort of oblivion of those ideas; when they know them only as barren speculations, and not as practical motives for conduct, it will be proper to press, as well as to offer them to the understanding; and when one is attacked by prejudices which aim to intrude themselves into the place of law, what is left for us but to vouch and call to warranty those principles of original justice from whence alone our title to every thing valuable in society is derived? Can it be thought to arise from a superflu-

us vain parade of displaying general and uncontroverted maxims, that we should revert at this time to the first principles of law, when we have directly under our consideration a whole body of statutes which, I say, are so many contradictions, which their advocates allow to be so many exceptions from those very principles? Take them in the most favourable light, every exception from the original and fixed rule of equality and justice ought surely to be very well authorized in the reason of their deviation, and very rare in their use: for if they should grow to be frequent, in what would they differ from an abrogation of the rule itself? By becoming thus frequent, they might even go further; and establishing themselves into a principle, convert the rule into the exception. It cannot be dissembled that this is not at all remote from the case before us, where the great body of the people are excluded from all valuable property; where the greatest and most ordinary benefits of society are conferred as privileges, and not enjoyed on the footing of common rights.

The clandestine manner in which those in power carry on such designs, is a sufficient argument of the sense they inwardly entertain of the true nature of their proceedings. Seldom is the title or preamble of the law of the same import with the body and enacting part; but they generally place some other colour uppermost, which differs from that which is afterwards to appear, or at least one that is several shades fainter. Thus the penal laws in question are not called laws to oblige men baptized and educated in popery to renounce their religion or their property; but are called laws to prevent the growth of popery; as if their purpose was only to prevent conversions to that sect, and not to persecute a million of people already engaged in it. But of all the instances of this sort of legislative artifice, and of the principles that produced it, I never met with any which made a stronger impression on me, than that of Louis XIV. in the revocation of the Edict of Nantz. That monarch had, when he made that revocation, as few measures to keep with public opinion as any man. In the exercise of the most unresisted authority at home, in a career of uninterrupted victory abroad, and in a course of flattery equal to the circumstances of his greatness; in both these particulars he might be supposed to have as little need as disposition to render any sort of account to the world of his procedure towards his subjects. But the persecution of so vast a body of men the Hugonots, was too strong a measure even for the law pride and power. It was too glaring a contradiction even those principles upon which persecution itself is support

Shocked at the naked attempt, he had recourse, for a palliation of his conduct, to an unkingly denial of the fact which made against him. In the preamble, therefore, to his act of revocation, he sets forth, that the edict of Nantz was no longer necessary, as the object of it (the protestants of his kingdom) were then reduced to a very small number. The refugees in Holland cried out against this misrepresentation. They asserted, I believe with truth, that this revocation had driven two hundred thousand of them out of their country; and that they could readily demonstrate, there still remained six hundred thousand protestants in France. If this were the fact (as it was undoubtedly) no argument of policy could have been strong enough to excuse a measure by which eight hundred thousand men were despoiled, at one stroke, of so many of their rights and privileges. Louis XIV. confessed by this sort of apology, that, if the number had been large, the revocation had been unjust. But, after all, is it not most evident that this act of injustice, which let loose on that monarch such a torrent of invective and reproach, and which threw so dark a cloud over all the splendour of a most illustrious reign, falls far short of the case in Ireland? The privileges which the protestants of that kingdom enjoyed precedent to this revocation, were far greater than the Roman catholics of Ireland ever aspired to under a contrary establishment. The number of their sufferers, if considered absolutely, is not half of ours. If considered relatively to the body of each community, it is not perhaps a twentieth part. And then the penalties and incapacities which grew from that revocation, are not so grievous in their nature, nor so certain in their execution, nor so ruinous by a great deal to the civil prosperity of the state, as those which we have established for a perpetual law in our unhappy country. It cannot be thought to arise from affectation that I call it so. What other name can be given to a country which contains so many hundred thousands of human creatures reduced to a state of the most abject servitude? In putting this parallel, I take it for granted that we can stand for this short time very clear of our party distinctions. If it were enough, by the use of an odious and unpopular word, to determine the question, it would be no longer a subject of rational disquisition; since that very prejudice which gives these odious names, and which is the party charged for doing so, and for the consequences of it, would then become the judge also. But I flatter myself that not a few will be found, who do not think that the names of protestant and papist can make any change in the nature of essential justice. Such men will not allow that to be proper treatment to the one

of these denominations, which would be cruelty to the other; and which converts its very crime into the instrument of its defence: they will hardly persuade themselves, that what was bad policy in France, can be good in Ireland; or that what was intolerable injustice in an arbitrary monarch, becomes, only by being more extended and more violent, an equitable procedure, in a country professing to be governed by law. It is however impossible not to observe with some concern, that there are many also of a different disposition; a number of persons whose minds are so formed, that they find the communion of religion to be a close and an endearing tie, and their country to be no bond at all; to whom common altars are a better relation than common habitations and a common civil interest; whose hearts are touched with the distresses of foreigners, and are abundantly awake to all the tenderness of human feeling on such an occasion, even at the moment that they are inflicting the very same distresses, or worse, on their fellow-citizens, without the least sting of compassion or remorse. To commiserate the distresses of all men suffering innocently, perhaps meritoriously, is generous, and very agreeable to the better part of our nature—a disposition that ought by all means to be cherished. But to transfer humanity from its natural basis, our legitimate and home-bred connexions; to lose all feeling for those who have grown up by our sides, in our eyes, of the benefit of whose cares and labours we have partaken from our birth; and meretriciously to hunt abroad after foreign affections; is such a disarrangement of the whole system of our duties, that I do not know whether benevolence so displaced is not almost the same thing as destroyed, or what effect bigotry could have produced that is more fatal to society. This no one can help observing, who has seen our doors kindly and bountifully thrown open to foreign sufferers for conscience, whilst through the same ports were issuing fugitives of our own, driven from their country for a cause which to an indifferent person would seem to be exactly similar, whilst we stood by, without any sense of impropriety of this extraordinary scene, accusing, and practising injustice.—For my part, there is no circumstance, in all the contradictions of our most mysterious nature, that appears to be more humiliating than the use we are disposed to make of those sad examples, which seem purposely marked for our correction and improvement. Every instance of fury and bigotry in other men, one should think, would naturally fill us with an horror of that disposition: the effect, however, is directly contrary. We are inspired, it is true, with a very sufficient hatred for the party, but with no detestation at all of the proceeding. Nay, we are

apt to urge our dislike of such measures, as a reason for imitating them; and by an almost incredible absurdity, because some powers have destroyed their country by their persecuting spirit, to argue that we ought to retaliate on them by destroying our own. Such are the effects, and such I fear has been the intention, of those numberless books, which are daily printed and industriously spread, of the persecutions in other countries and other religious persuasions. These observations, which are a digression, but hardly I think can be considered as a departure from the subject, have detained us some time; we will now come more directly to our purpose.

It has been shown, I hope with sufficient evidence, that a constitution against the interest of the many, is rather of the nature of a grievance than a law: that of all grievances it is the most weighty and important; that it is made without due authority, against all the acknowledged principles of jurisprudence, against the opinions of all the great lights in that science; and that such is the tacit sense even of those who act in the most contrary manner. These points are indeed so evident, that I apprehend the abettors of the penal system will ground their defence on an admission, and not on a denial of them.—They will lay it down as a principle, that the protestant religion is a thing beneficial for the whole community, as well in its civil interests, as in those of a superior order. From thence they will argue, that the end being essentially beneficial, the means become instrumentally so; that these penalties and incapacities are not final causes of the law, but only a discipline to bring over a deluded people to their real interest; and therefore, though they may be harsh in their operation, they will be pleasant in their effects; and be they what they will, they cannot be considered as a very extraordinary hardship, as it is in the power of the sufferer to free himself when he pleases; and that, only by converting to a better religion, which it is his duty to embrace, even though it were attended with all those penalties from whence in reality it delivers him: if he suffers, it is his own fault; *volenti non fit injuria.*

I shall be very short, without being, I think, the less satisfactory, in my answer to these topics, because they never can be urged from a conviction of their validity; and are indeed only the usual and impotent struggles of those, who are unwilling to abandon a practice which they are unable to defend. First then I observe, that if the principle of their final and beneficial intention be admitted as a just ground for such proceedings, there never was, in the blameable sense of the word, nor never can be such a thing, as a religious persecution in the world.

Such an intention is pretended by all men; who all not only insist that their religion has the sanction of heaven, but is likewise, and for that reason, the best and most convenient to human society. All religious persecution, Mr. Bayle well observes, is grounded upon a miserable *petitio principii*. You are wrong; I am right; you must come over to me, or you must suffer. Let me add, that the great inlet, by which a colour for oppression has entered into the world, is by one man's pretending to determine concerning the happiness of another, and by claiming a right to use what means he thinks proper in order to bring him to a sense of it. It is the ordinary and trite sophism of oppression. But there is not yet such a convenient ductility in the human understanding, as to make us capable of being persuaded that men can possibly mean the ultimate good of the whole society, by rendering miserable for a century together the greater part of it; or that any one has such a reversionary benevolence as seriously to intend the remote good of a late posterity, who can give up the present enjoyment which every honest man must have in the happiness of his contemporaries. Every body is satisfied that a conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society; and that therefore all forms whatsoever of government are only good as they are subservient to that purpose, to which they are entirely subordinate. Now, to aim at the establishment of any form of government, by sacrificing what is the substance of it; to take away, or at least to suspend the rights of nature, in order to an approved system for the protection of them; and for the sake of that about which men must dispute for ever, to postpone those things about which they have no controversy at all, and this not in minute and subordinate, but large and principal objects; is a procedure as preposterous and absurd in argument, as it is oppressive and cruel in its effects: for the protestant religion, nor (I speak it with reverence, I am sure) the truth of our common christianity, is not so clear as this proposition; that all men, at least the majority of men in the society, ought to enjoy the common advantages of it. You fall, therefore, into a double error; first, you incur a certain mischief for an advantage which is comparatively problematical, even though you were sure of obtaining it; secondly, whatever the proposed advantage may be, were it of a certain nature, the attainment of it is by no means certain; and such deep gaming, for stakes so valuable, ought not to be admitted: the risk is of too much consequence to society. If no other country furnished examples of this risk, yet our laws and our country is enough fully to demonstrate the fact; Ireland, after almost a

century of persecution, is at this hour full of penalties and full of papists. This is a point which would lead us a great way; but it is only just touched here, having much to say upon it in its proper place. So that you have incurred a certain and an immediate inconvenience, for a remote and for a doubly uncertain benefit. Thus far as to the argument which would sanctify the injustice of these laws, by the benefits which they proposed to arise from them, and as to that liberty which, by their political chemistry, was to be extracted out of a system of oppression.

Now, as to the other point, that the objects of these laws suffer voluntarily; this seems to me to be an insult rather than an argument. For beside that it totally annihilates every characteristic, and therefore every faulty idea of persecution, just as the former does; it supposes, what is false in fact, that it is in a man's moral power to change his religion whenever his convenience requires it. If he be beforehand satisfied that your opinion is better than his, he will voluntarily come over to you, and without compulsion; and then your law would be unnecessary; but if he is not so convinced, he must know that it is his duty in this point to sacrifice his interest here to his opinion of his eternal happiness, else he could have in reality no religion at all. In the former case, therefore, as your law would be unnecessary; in the latter, it would be persecuting; that is, it would put your penalty and his ideas of duty in the opposite scales; which is, or I know not what is, the precise idea of persecution. If then you require a renunciation of his conscience, as a preliminary to his admission to the rights of society; you annex, morally speaking, an impossible condition to it. In this case, in the language of reason and jurisprudence, the condition would be void, and the gift absolute; as the practice runs, it is to establish the condition, and to withhold the benefit. The suffering is then not voluntary. And I never heard any other argument, drawn from the nature of laws and the good of human society, urged in favour of those proscriptive statutes, except those which have just been mentioned.

CHAPTER III.

PART II.

The second head upon which I propose to consider those statutes, with regard to their object, and which is the next in importance to the magnitude, and of almost equal concern in

the inquiry into the justice of these laws, is its possession. It is proper to recollect, that this religion which is so persecuted in its members, is the old religion of the country, and the once established religion of the state; the very same which had for centuries received the countenance and sanction of the laws, and from which it would at one time have been highly penal to have dissented. In proportion as mankind has become enlightened, the idea of religious persecution, under any circumstances, has been almost universally exploded by all good and thinking men. The only faint shadow of difficulty which remains, is concerning the introduction of new opinions. Experience has shown, that if it has been favourable to the cause of truth, it has not been always conducive to the peace of society. Though a new religious sect should even be totally free in itself from any tumultuous and disorderly zeal, which however is rarely the case, it has a tendency to create a resistance, from the establishment in possession, productive of great disorders; and thus becomes, innocently indeed, but yet very certainly, the cause of the bitterest dissentions in the commonwealth. To a mind not thoroughly saturated with the tolerating maxims of the gospel, a preventive persecution, on such principles, might come recommended by strong and apparently no immoral motives of policy, whilst yet the contagion was recent, and had laid hold but on a few persons. The truth is, these politics are rotten and hollow at bottom, as all that are founded upon any, however minute a degree, of positive injustice, must ever be. But they are specious, and sufficiently so to delude a man of sense and of integrity. But it is quite otherwise with the attempt to eradicate by violence a wide-spreading and established religious opinion. If the people are in an error, to inform them is not only fair, but charitable; to drive them, is a strain of the most manifest injustice. If not the right, the presumption at least is ever on the side of possession. Are they mistaken? if it does not fully justify them, it is a great alleviation of guilt, which may be mingled with their misfortune, that the error is none of their forging; that they received it on as good a footing as they can receive your laws and your legislative authority, because it was handed down to them from their ancestors. The opinion may be erroneous, but the principle is undoubtedly right; and you punish them for acting upon a principle which, of all others, is perhaps the most necessary for preserving society, an implicit admiration and adherence to the establishments of their forefathers.

If indeed the legislative authority was on all hands admitted to be the ground of religious persuasion, I should readily allow

that dissent would be rebellion. In this case it would make no difference, whether the opinion was sucked in with the milk, or imbibed yesterday: because the same legislative authority which had settled, could destroy it, with all the power of a Creator over his creature. But this doctrine is universally disowned, and for a very plain reason. Religion, to have any force on men's understandings, indeed to exist at all, must be supposed paramount to laws, and independent for its substance upon any human institution. Else it would be the absurdest thing in the world; an acknowledged cheat. Religion therefore is not believed because the laws have established it; but it is established because the leading part of the community have previously believed it to be true. As no water can rise higher than its spring, no establishment can have more authority than it derives from its principle; and the power of the government can with no appearance of reason go further coercively, than to bind and hold down those who have once consented to their opinions. The consent is the origin of the whole. If they attempt to proceed further, they disown the foundation upon which their own establishment was built, and they claim a religious assent upon mere human authority; which has been just now shown to be absurd and preposterous, and which they in fact confess to be so.

However, we are warranted to go thus far. The people often actually do (and perhaps they cannot in general do better) take their religion, not on the coercive, which is impossible, but on the influencing authority of their governors, as wise and informed men. But if they once take a religion on the word of the state, they cannot in common sense do so a second time, unless they have some concurrent reason for it. The prejudice in favour of your wisdom is shook by your change. You confess that you have been wrong; and yet you would pretend to dictate by your sole authority; whereas you disengage the mind by embarrassing it. For why should I prefer your opinion of to-day to your persuasion of yesterday? If we must resort to prepossessions for the ground of opinion, it is in the nature of man rather to defer to the wisdom of times passed, whose weakness is not before his eyes, than to the present, of whose imbecility he has daily experience. Veneration of antiquity is congenial to the human mind. When therefore an establishment would persecute an opinion in possession, it sets against it all the powerful prejudices of human nature. It even sets its own authority, when it is of most weight, against itself in that very circumstance in which it must necessarily have the least; and it opposes the stable prejudice of time

against a new opinion founded on mutability; a consideration that must render compulsion in such a case the more grievous, as there is no security that when the mind is settled in the new opinion, it may not be obliged to give place to one that is still newer, or even to a return of the old. But when an antient establishment begins early to persecute an innovation, it stands upon quite other grounds, and it has all the prejudices and presumptions on its side. It puts its own authority, not only of compulsion, but prepossession, the veneration of passed age, as well as the activity of the present time, against the opinion only of a private man, or set of men. If there be no reason, there is at least some consistency in its proceedings. Commanding to constancy, it does nothing but that of which it sets an example itself. But an opinion at once new and persecuting, is a monster: because, in the very instant in which it takes a liberty of change, it does not leave to you even a liberty of perseverance.

Is then no improvement to be brought into society? Undoubtedly; but not by compulsion—but by encouragement—but by countenance—favour—privileges, which are powerful, and are lawful instruments. The coercive authority of the state is limited to what is necessary for its existence. To this belongs the whole order of criminal law. It considers as crimes (that is, the object of punishment) trespasses against those rules for which society was instituted. The law punishes delinquents, not because they are not good men; but because they are intolerably wicked. It does bear, and must, with the vices and the follies of men, until they actually strike at the root of order. This it does in things actually moral. In all matters of speculative improvement, the case is stronger, even where the matter is properly of human cognizance. But to consider an averseness to improvement, the not arriving at perfection, as a crime, is against all tolerably correct jurisprudence; for if the resistance to improvement should be great and any way general, they would in effect give up the necessary and substantial part, in favour of the perfection and the finishing.

But, say the abettors of our penal laws, this old possessed superstition is such in its principles, that society, on its general principles, cannot subsist along with it. Could a man think such an objection possible, if he had not actually heard it made? an objection contradicted not by hypothetical reasonings, but the clear evidence of the most decisive facts; society not only exists, but flourishes at this hour with this superstition, in many countries, under every form of government; in

some established, in some tolerated; in others, upon an equal footing. And was there no civil society at all in these kingdoms before the reformation? To say it was not as well constituted as it ought to be, is saying nothing at all to the purpose; for that assertion evidently regards improvement, not existence. It certainly did then exist; and it as certainly then was at least as much to the advantage of a very great part of society, as what we have brought in the place of it: which is indeed a great blessing to those who have profited of the change; but to all the rest, as we have wrought, that is by blending general persecution with partial reformation, it is the very reverse. We found the people heretics and idolaters; we have, by way of improving their condition, rendered them slaves and beggars; they remain in all the misfortune of their old errors, and all the superadded misery of their recent punishment. They were happy enough, in their opinion at least, before the change: what benefits society then had, they partook of them all. They are now excluded from those benefits; and so far as civil society comprehends them, and as we have managed the matter, our persecutions are so far from being necessary to its existence, that our very reformation is made in a degree noxious. If this be improvement, truly I know not what can be called a depravation of society.

But as those who argue in this manner are perpetually shifting the question, having begun with objecting, in order to give a fair and public colour to their scheme, to a toleration of those opinions as subversive of society in general; they will surely end, by abandoning the broad part of the argument, and attempting to show that a toleration of them is inconsistent with the established government among us. Now, though this position be in reality as untenable as the other, it is not altogether such an absurdity on the face of it. All I shall here observe, is, that those who lay it down, little consider what a wound they are giving to that establishment for which they pretend so much zeal. However, as this is a consideration not of general justice, but of particular and national policy, and as I have reserved a place expressly, where it will undergo a thorough discussion, I shall not here embarrass myself with it; being resolved to preserve all the order in my power in the examination of this important melancholy subject.

However, before we pass from this point concerning possession, it will be a relaxation of the mind, not wholly foreign to our purpose, to take a short review of the extraordinary policy which has been held with regard to religion in that kingdom, from the time our ancestors took possession of it. The most

able antiquaries are of opinion, and archbishop Usher, whom I reckon amongst the first of them, has I think shown, that a religion not very remote from the present protestant persuasion, was that of the Irish, before the union of that kingdom to the crown of England. If this was not directly the fact, this at least seems very probable, that papal authority was much lower in Ireland than in other countries. This union was made under the authority of an arbitrary grant of pope Adrian, in order that the church of Ireland should be reduced to the same servitude with those that were nearer to his see. It is not very wonderful that an ambitious monarch should make use of any pretence in his way to so considerable an object. What is extraordinary is, that for a very long time, even quite down to the reformation, and in their most solemn acts, the kings of England founded their title wholly on this grant; they called for obedience from the people of Ireland, not on principles of subjection, but as vassals and mesne lords between them and the popes, and they omitted no measure of force or policy to establish that papal authority, and all the distinguishing articles of religion connected with it, and to make it take deep root in the minds of the people. Not to crowd instances unnecessary, I shall select two; one which is in print, the other on record; the one a treaty, the other an act of parliament. The first is the submission of the Irish chiefs to Richard II. mentioned by Sir John Davis. In this pact, they bind themselves for the future, to preserve peace and allegiance to the kings of England, under certain pecuniary penalties; but what is remarkable, these fines were all covenanted to be paid into the apostolical chamber, supposing the pope as the superior power, whose peace was broken, and whose majesty was violated, in disobeying his governor. By this time, so far as regarded England, the kings had extremely abridged the papal power in many material particulars; they had passed the statute of provisors; the statute of premunire; and indeed struck out of the papal authority all things at least that seemed to infringe on their temporal independence. In Ireland, however, their proceeding was directly the reverse: there they thought it expedient to exalt it at least as high as ever. For so late as the reign of Edward IV. the following short but very explicit act of parliament was passed:

IV Ed. Cap. 3.

An act whereby letters patents of pardon from the King to those that sue to Rome for certain benefices, is void. Rot. Parl.

Item. At the request of the commons it is ordeyned and established, by authority of the said parliament, that all maner letters patents of the king, of pardons or pardon granted by the king, or hereafter to be granted to any provisor, that claim any title by the bulls of the pope to any maner benefices, where at the time of the impetrating of the said bulls of provision, the benefice is full of an incumbent, that then the said letters patents of pardon or pardons be void in law and of none effect.

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When by every expedient of force and policy, by a war of some centuries, by extirpating a number of the old, and by bringing in a number of new people full of those opinions, and intending to propagate them, they had fully compassed their object, they suddenly took another turn; commenced an opposite persecution, made heavy laws, carried on mighty wars, inflicted and suffered the worst evils, extirpated the mass of the old, brought in new inhabitants; and they continue at this day an oppressive system, and may for four hundred years to come, to eradicate opinions, which by the same violent means they had been four hundred years endeavouring by every means to establish. They compelled the people to submit, by the forfeiture of all their civil rights, to the pope's authority, in its most extravagant and unbounded sense, as a giver of kingdoms; and now we refuse even to tolerate them in the most moderate and chastised sentiments concerning it. No country, I believe, since the world began, suffered so much on account of religion; or has been so variously harassed both for popery and for protestantism.

It will now be seen, that even if these laws could be supposed agreeable to those of nature in these particulars, on another and almost as strong a principle they are yet unjust, as being contrary to positive compact, and the public faith most solemnly plighted. On the surrender of Limerick and some other Irish garrisons, in the war of the revolution, the lords justices of Ireland and the commander in chief of the king's forces signed a capitulation with the Irish, which was afterwards ratified by the king himself, by *Inspeximus* under the great seal of England. It contains some public articles relative to the whole body of the Roman catholics in that kingdom, and some with

regard to the security of the greater part of the inhabitants of five counties. What the latter were, or in what manner they were observed, is at this day of much less public concern. The former are two, the 1st and the 9th. The first is of this tenour: The Roman catholics of this kingdom (Ireland) shall enjoy such privileges, in the exercise of their religion, as are consistent with the laws of Ireland, or as they did enjoy in the reign of king Charles II. And their majesties, as soon as their affairs will permit them to summon a parliament in this kingdom, will endeavour to procure the said Roman catholics such further security in that particular as may preserve them from any disturbance on account of their religion. The 9th article is to this effect: The oath to be administered to such Roman catholics as submit to their majesties' government, shall be the oath aforesaid, and no other; viz. the oath of allegiance, made by act of parliament in England, in the first year of their then majesties; as required by the second of the articles of Limerick. Compare this latter article with the penal laws, as they are stated in the 2d chapter, and judge whether they seem to be the public acts of the same powers, and observe whether other oaths are tendered to them, and under what penalties.—Compare the former with the same laws, from the beginning to the end, and judge whether the Roman catholics have been preserved, agreeably to the sense of the article, from any disturbance upon account of their religion; or rather, whether on that account there is a single right of nature, or benefit of society, which has not been either totally taken away or considerably impaired.

But it is said, that the legislature was not bound by this article, as it has never been ratified in parliament. I do admit, that it never had that sanction, and that the parliament was under no obligation to ratify these articles by any express act of theirs. But still I am at a loss how they came to be the less valid, on the principles of our constitution, by being without that sanction. They certainly bound the king and his successors. The words of the article do this; or they do nothing; and so far as the crown had a share in passing those acts, the public faith was unquestionably broken. In Ireland such a breach on the part of the crown was much more unpardonable in administration, than it would have been here. They have in Ireland a way of preventing any bill even from approaching the royal presence, in matters of far less importance than the honour and faith of the crown, and the well-being of a great body of the people. For beside that they might have opposed the very first suggestion of it in the house of commons, it

could not be framed into a bill without the approbation of the council in Ireland. It could not be returned to them again without the approbation of the king and council here. They might have met it again in its second passage through that house of parliament in which it was originally suggested, as well as in the other. If it had escaped them through all these mazes, it was again to come before the lord lieutenant, who might have sunk it by a refusal of the royal assent. The constitution of Ireland has interposed all those checks to the passing of any constitutional act, however insignificant in its own nature. But did the administration in that reign avail themselves of any one of those opportunities? They never gave the act of the 11th of queen Anne the least degree of opposition in any one stage of its progress. What is rather the fact, many of the queen's servants encouraged it, recommended it, were, in reality, the true authors of its passing in parliament, instead of recommending and using their utmost endeavour to establish a law directly opposite in its tendency, as they were bound to do by the express letter of the very first article of the treaty of Limerick. To say nothing further of the ministry, who in this instance most shamefully betrayed the faith of government, may it not be a matter of some degree of doubt, whether the parliament, who do not claim a right of dissolving the force of moral obligation, did not make themselves a party in this breach of contract, by presenting a bill to the crown in direct violation of those articles so solemnly and so recently executed, which, by the constitution, they had full authority to execute.

It may be further objected, that, when the Irish requested the ratification of parliament to those articles, they did, in effect, themselves entertain a doubt concerning their validity without such a ratification. To this I answer, that the collateral security was meant to bind the crown, and to hold it firm to its engagements. They did not, therefore, call it a *perfecting* of the security, but an *additional* security, which it could not have been, if the first had been void; for the parliament could not bind itself more than the crown had bound itself. And if all had made but *one* security, neither of them could be called *additional* with propriety or common sense. But let us suppose that they did apprehend, there might have been something wanting in this security without the sanction of parliament. They were, however, evidently mistaken; and this surplusage of theirs did not weaken the validity of the single contract, upon the known principle of law; *Non solent quæ abundant, vitiare scripturas.* For nothing is more evident than that the crown was bound, and that no act can be

made without the royal assent. But the constitution will warrant us in going a great deal further, and in affirming that a treaty executed by the crown, and contradictory of no preceding law, is full as binding on the whole body of the nation, as if it had twenty times received the sanction of parliament; because the very same constitution, which has given to the houses of parliament their definite authority, has also left in the crown the trust of making peace, as a consequence, and much the best consequence, of the prerogative of making war. If the peace was ill made, my lord Gallway, Coningsby, and Porter, who signed it, were responsible; because they were subject to the community. But its own contracts are not subject to it. It is subject to them; and the compact of the king acting constitutionally was the compact of the nation.

Observe what monstrous consequences would result from a contrary position. A foreign enemy has entered, or a strong domestic one has arisen in the nation. In such events the circumstances may be, and often have been, such, that a parliament cannot sit. This was precisely the case in that rebellion in Ireland. It will be admitted also, that their power may be so great, as to make it very prudent to treat with them, in order to save effusion of blood, perhaps to save the nation. Now, could such a treaty be at all made, if your enemies or rebels were fully persuaded that, in these times of confusion, there was no authority in the state, which could hold out to them an inviolable pledge for their future security; but that there lurked in the constitution a dormant but irresistible power, who would not think itself bound by the ordinary subsisting and contracting authority, but might rescind its acts and obligations at pleasure? This would be a doctrine made to perpetuate and exasperate war; and, on that principle, it directly impugns the law of nations, which is built upon this principle, that war should be softened as much as possible, and that it should cease as soon as possible between contending parties and communities. The king has a power to pardon individuals. If the king holds out his faith to a robber, to come in on a promise of pardon, of life and estate, and, in all respects, of a full indemnity, shall the parliament say, that he must, nevertheless, be executed, that his estate must be forfeited, or that he shall be abridged of any of the privileges which he before held as a subject? Nobody will affirm it. In such a case, the breach of faith would not only be on the part of the king, who assented to such an act, but on the part of the parliament, who made it. As the king represents the whole contracting capacity of the nation, so far as his prerogative (unlimited, as I said before, by any precedent

law) can extend, and he acts as the national procurator on all such occasions. What is true of a robber, is true of a rebel; and what is true of one robber or rebel, is as true, and it is a much more important truth, of one hundred thousand.

To urge this part of the argument much further is, indeed, I fear, not necessary, for two reasons: First, that it seems tolerably evident in itself, and next, that there is but too much ground to apprehend that the actual ratification of parliament would, in the then temper of parties, have proved but a very slight and trivial security. Of this there is a very strong example in the history of those very articles. For, though the parliament omitted in the reign of King William to ratify the first and most general of them, they did actually confirm the second and more limited, that which related to the security of the inhabitants of those five counties which were in arms when the treaty was made.

CHAP. IV.

In the foregoing book we considered these laws in a very simple point of view, and in a very general one; merely as a system of hardship imposed on the body of the community; and from thence and from some other arguments inferred the general injustice of such a procedure. In this we shall be obliged to be more minute; and the matter will become more complex as we undertake to demonstrate the mischievous and impolitic consequences, which the particular mode of this oppressive system, and the instruments which it employs, operating as we said on this extensive object, produces on the national prosperity, quiet, and security.

The stock of materials by which any nation is rendered flourishing and prosperous, are its industry, its knowledge or skill, its morals, its execution of justice, its courage, and the national union in directing these powers to one point, and making them all center in the public benefit. Other than these I do not know, and scarcely can conceive any means by which a community may flourish.

If we show that these penal laws of Ireland destroy not one only, but every one of these materials of public prosperity, it will not be difficult to perceive that Great Britain, whilst they subsist, never can draw from that country all the advantages to which the bounty of nature has entitled it.

To begin with the first great instrument of national happiness, strength and industry, I must observe that although these penal laws do indeed inflict many hardships on those who are obnoxious to them, yet their chief, their most extensive, and most certain operation is upon property. Those civil constitutions which promote industry, are such as facilitate the acquisition, secure the holding, enable the fixing, and suffer the alienation of property. Every law which obstructs it in any part of this distribution is, in proportion to the force and extent of the obstruction, a discouragement to industry. For a law against property is a law against industry, the latter having always the former, and nothing else, for its object. Now, as to the acquisition of landed property, which is the foundation and support of all the other kinds, the laws have disabled three-fourths of the inhabitants of Ireland from acquiring any estate of inheritance for life or years, or any charge whatsoever on which two-thirds of the improved yearly value is not reserved for thirty years.

This confinement of landed property to one set of hands, and preventing its free circulation through the community, is a most leading article of ill policy; because it is one of the most capital discouragements to all that industry which may be employed on the lasting improvement of the soil, or is any way conversant about land. A tenure of thirty years is evidently no tenure upon which to build, to plant, to raise enclosures, to change the nature of the ground, to make any new experiment which might improve agriculture, or to do any thing more than what may answer the immediate and momentary calls of rent to the landlord, and leave subsistence to the tenant and his family. The desire of acquisition is always a passion of long views: confine a man to momentary possession, and you at once cut off that laudable avarice which every wise state has cherished as one of the first principles of its greatness. Allow a man but a temporary possession; lay it down as a maxim, that he never can have any other, and you immediately and infallibly turn him to temporary enjoyments; and these enjoyments are never the pleasures of labour and free industry, and whose quality it is to famish the present hours, and squander all upon prospect and futurity; they are, on the contrary, those of a thoughtless, loitering, and dissipated life. The people must be inevitably disposed to such pernicious habits, merely from the short duration of their tenure which the law has allowed. But it is not enough that industry is checked by the confinement of its views; it is further discouraged by the limitation of its own direct object, profit. This is a regulation extremely worthy

of our attention, as it is not a consequential, but a direct discouragement to melioration; as directly as if the law had said in express terms, "Thou shalt not improve."

But we have an additional argument to demonstrate the ill policy of denying the occupiers of land any solid property in it. Ireland is a country wholly unplanted. The farms have neither dwelling-houses, nor good offices; nor are the lands almost any where provided with fences and communications; in a word, in a very unimproved state. The land owner there never takes upon him, as it is usual in this kingdom, to supply all these conveniences, and to set down his tenant in what may be called a completely furnished farm. If the tenant will not do it, it is never done. This circumstance shows how miserably and peculiarly impolitic it has been in Ireland to tie down the body of the tenantry to short and unprofitable tenures. A finished and furnished house will be taken for any term, however short: if the repair lies on the owner, the shorter the better. But no one will take one not only unfurnished but half built, but upon a term which, on calculation, will answer with profit all his charges. It is on this principle that the Romans established their *Emphyteusis* or Fee-farm. For though they extended the ordinary term of their location only to nine years; yet they encouraged a more permanent letting to farm, with the condition of improvement as well as of annual payment on the part of the tenant, where the land had lain rough and neglected; and therefore invented this species of engrafted holding in the later times when property came to be worse distributed by falling into a few hands. This denial of landed property to the gross of the people has this further evil effect in preventing the improvement of land; that it prevents any of the property acquired in trade to be regorged as it were upon the land. They must have observed very little, who have not remarked the bold and liberal spirit of improvement, which persons bred to trade have often exerted on their land purchases; that they usually come to them with a more abundant command of ready money than most landed men possess; and that they have in general a much better idea, by long habits of calculative dealings, of the propriety of expending in order to acquire. Besides, such men often bring their spirit of commerce into their estates with them, and make manufactures take a root where the mere landed gentry had perhaps no capital, perhaps no inclination, and most frequently not sufficient knowledge to effect any thing of the kind. By these means what beautiful and useful spots have there not been made about trading and manufacturing towns, and how has agriculture had reason to bless that happy alliance

with commerce; and how miserable must that nation be, whose frame of polity has disjoined the landing and the trading interests.

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The great prop of this whole system is not pretended to be its justice or its utility, but the supposed danger to the state which gave rise to it originally, and which they apprehend would return if this system were overturned. Whilst, say they, the papists of this kingdom were possessed of landed property, and of the influence consequent to such property, their allegiance to the crown of Great Britain was ever insecure; the public peace was ever liable to be broken; and protestants never could be a moment secure either of their properties or of their lives. Indulgence only made them arrogant, and power daring; confidence only excited and enabled them to exert their inherent treachery; and the times, which they generally selected for their most wicked and desperate rebellions, were those in which they enjoyed the greatest ease and the most perfect tranquillity.

Such are the arguments that are used, both publicly and privately, in every discussion upon this point. They are generally full of passion and of error, and built upon facts which in themselves are most false. It cannot, I confess, be denied, that those miserable performances which go about under the names of Histories of Ireland, do indeed represent those events after this manner; and they would persuade us, contrary to the known order of nature, that indulgence and moderation in governors is the natural incitement in subjects to rebel. But there is an interior History of Ireland, the genuine voice of its records and monuments, which speaks a very different language from these histories, from Temple and from Clarendon; these restore nature to its just rights, and policy to its proper order. For they even now show to those who have been at the pains to examine them, and they may show one day to all the world, that these rebellions were not produced by toleration, but by persecution; that they arose not from just and mild government, but from the most unparalleled oppression. These records will be far from giving the least countenance to a doctrine so repugnant to humanity and good sense, as that the security of any establishment, civil or religious, can ever depend upon the misery of those who live under it, or that its danger can arise from their quiet and prosperity. God forbid that the history of this or any country should give such encouragement to the folly or vices of those who govern. If it can be shown that the great rebellions of Ire-

land have arisen from attempts to reduce the natives to the state to which they are now reduced, it will show that an attempt to continue them in that state will rather be disadvantageous to the public peace than any kind of security to it. These things have in some measure began to appear already, and as far as regards the argument drawn from former rebellions it will fall readily to the ground. But, for my part, I think the real danger to every state is to render its subjects justly discontented; nor is there in politics or science any more effectual secret for their security, than to establish in their people a firm opinion that no change can be for their advantage. It is true that bigotry and fanaticism may for a time draw great multitudes of people from a knowledge of their true and substantial interest. But upon this I have to remark three things; first, that such a temper can never become universal, or last for a long time. The principle of religion is seldom lasting; the majority of men are in no persuasion bigots; they are not willing to sacrifice, on every vain imagination that superstition or enthusiasm holds forth, or that even zeal and piety recommend, the certain possession of their temporal happiness. And if such a spirit has been at any time roused in a society, after it has had its paroxysm, it commonly subsides and is quiet, and is even the weaker for the violence of its first exertion; security and ease are its mortal enemies. But, secondly, if any thing can tend to revive and keep it up, it is to keep alive the passions of men by ill usage. This is enough to irritate even those who have not a spark of bigotry in their constitution to the most desperate enterprises; it certainly will inflame, darken, and render more dangerous the spirit of bigotry in those who are possessed by it. Lastly, By rooting out any sect, you are never secure against the effects of fanaticism; it may arise on the side of the most favoured opinions; and many are the instances wherein the established religion of a state has grown ferocious, and turned upon its keeper, and has often torn to pieces the civil establishment that had cherished it, and which it was designed to support; France—England—Holland.

But there may be danger of wishing a change, even where no religious motive can operate; and every enemy to such a state comes as a friend to the subject; and where other countries are under terror, they begin to hope.

This argument *ad verecundiam* has as much force as any such have. But I think it fares but very indifferently with those who make use of it; for they would get but little to be proved abettors of tyranny, at the expense of putting me to

an inconvenient acknowledgment. For if I were to confess that there are circumstances in which it would be better to establish such a religion * * * * * * * * * * * * *

With regard to the pope's interest. This foreign chief of their religion cannot be more formidable to us, than to other protestant countries; to conquer that country for himself, is a wild chimera; to encourage revolt in favour of foreign princes, is an exploded idea in the politics of that court. Perhaps it would be full as dangerous to have the people under the conduct of factious pastors of their own, as under a foreign ecclesiastical court.

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In the second year of the reign of Queen Elizabeth, were enacted also several limitations in the acquisition, or the retaining of property, which had, so far as regarded any general principles, hitherto remained untouched under all changes.

These bills met no opposition either in the Irish parliament or in the English council, except from private agents, who were little attended to; and they passed into laws with the highest and most general applauses, as all such things are in the beginning, not as a system of persecution, but as masterpieces of the most subtle and refined politics. And, to say the truth, these laws at first view have rather an appearance of a plan of vexatious litigation and crooked law-chicanery, than of a direct and sanguinary attack upon the rights of private conscience; because they did not affect life, at least with regard to the laity; and making the catholic opinions rather the subject of civil regulations than of criminal prosecutions, to those who are not lawyers, and read these laws, they only appear to be a species of jargon. For the execution of criminal law has always a certain appearance of violence; being exercised directly on the persons of the supposed offenders, and commonly executed in the face of the public, such executions are apt to excite sentiments of pity for the sufferers, and indignation against those who are employed in such cruelties; being seen as single acts of cruelty, rather than as ill general principles of government: but the operation of the laws in question being such as common feeling brings home to every man's bosom, they operate in a sort of comparative silence and obscurity; and though their cruelty is exceedingly great, it is never seen in a single exertion, and always escapes commiseration, being scarce known except to those who view

them in a general, which is always a cold and phlegmatic light. The first of these laws being made with so general a satisfaction, as the chief governors found that such things were extremely acceptable to the leading people in that country, they were willing enough to gratify them with the ruin of their fellow citizens; they were not sorry to divert their attention from other inquiries, and to keep them fixed to this, as if this had been the only real object of their national politics; and for many years there was no speech from the throne, which did not with great appearance of seriousness recommend the passing of such laws, and scarce a session went over without in effect passing some of them; until they have by degrees grown to be the most considerable head in the Irish statute book. At the same time, giving a temporary and occasional mitigation to the severity of some of the harshest of those laws, they appeared in some sort the protectors of those, whom they were in reality destroying by the establishment of general constitutions against them. At length, however, the policy of this expedient is worn out; the passions of men are cooled; those laws begin to disclose themselves, and to produce effects very different from those which were promised in making them; for crooked counsels are ever unwise; and nothing can be more absurd and dangerous than to tamper with the natural foundations of society, in hopes of keeping it up by certain contrivances.

A LETTER

TO

WILLIAM SMITH, ESQ.*

MY DEAR SIR,

YOUR letter is, to myself, infinitely obliging: with regard to you, I can find no fault with it, except that of a tone of humility and disqualification, which neither your rank, nor the place you are in, nor the profession you belong to, nor your very extraordinary learning and talents will, in propriety, demand, or perhaps admit. These dispositions will be still less proper, if you should feel them in the extent your modesty leads you to express them. You have certainly given by far too strong a proof of self diffidence, by asking the opinion of a man circumstanced as I am, on the important subject of your letter. You are far more capable of forming just conceptions upon it than I can be. However, since you are pleased to command me to lay before you my thoughts, as materials upon which your better judgment may operate, I shall obey you: and submit them, with great deference, to your melioration or rejection.

But first permit me to put myself in the right. I owe you an answer to your former letter. It did not desire one; but it deserved it. If not for an answer, it called for an acknowledgment. It was a new favour; and indeed I should be worse than insensible, if I did not consider the honours you have heaped upon me, with no sparing hand, with becoming gratitude. But your letter arrived to me at a time, when the closing of my long and last business in life, a business extremely complex, and full of difficulties and vexations of all sorts, occupied me in a manner which those who have not seen the interior as well as exterior of it, cannot easily imagine. I confess that in the crisis of that rude conflict, I neglected many things that well de-

* Then a member of the Irish parliament; now one of the barons of the court of exchequer in Ireland.

served my best attention: none that deserved it better, or have caused me more regret in the neglect, than your letter. The instant that business was over, and the house had passed its judgment on the conduct of the managers, I lost no time to execute what for years I had resolved on: it was to quit my public station, and to seek that tranquillity in my very advanced age, to which, after a very tempestuous life, I thought myself entitled. But God has thought fit (and I unfeignedly acknowledge his justice) to dispose of things otherwise. So heavy a calamity has fallen upon me, as to disable me for business, and to disqualify me for repose. The existence I have, I do not know that I can call life. Accordingly I do not meddle with any one measure of government, though, for what reasons I know not, you seem to suppose me deeply in the secret of affairs. I only know, so far as your side of the water is concerned, that your present excellent lord lieutenant (the best man in every relation, that I have ever been acquainted with) has perfectly pure intentions with regard to Ireland; and of course, that he wishes cordially well to those, who form the great mass of its inhabitants; and who, as they are well or ill managed, must form an important part of its strength or weakness. If, with regard to that great object, he has carried over any ready-made system, I assure you it is perfectly unknown to me: I am very much retired from the world, and live in much ignorance. This, I hope, will form my humble apology, if I should err in the notions I entertain of the question which is soon to become the subject of your deliberations. At the same time accept it as an apology for my neglects.

You need make no apology for your attachment to the religious description you belong to. It proves (as in you it is sincere,) your attachment to the great points in which the leading divisions are agreed, when the lesser, in which they differ, are so dear to you. I shall never call any religious opinions, which appear important to serious and pious minds, things of no consideration. Nothing is so fatal to religion as indifference, which is, at least, half infidelity. As long as men hold charity and justice to be essential integrant parts of religion, there can be little danger from a strong attachment to particular tenets in faith. This I am perfectly sure is your case; but I am not equally sure, that either zeal for the tenets of faith, or the smallest degree of charity or justice, have much influenced the gentlemen who, under pretexts of zeal, have resisted the enfranchisement of their country. My dear son, who was a person of discernment, as well as clear and acute in his expressions, said in a letter of his which I have seen, "that in order to

grace their cause and to draw some respect to their persons, they pretend to be bigots." But here I take it we have not much to do with the theological tenets, on the one side of the question or the other. The point itself is practically decided, That religion is owned by the state. Except in a settled maintenance, it is protected. A great deal of the rubbish, which as a nuisance long obstructed the way, is removed. One impediment remained longer, as a matter to justify the proscription of the body of our country, after the rest had been abandoned as untenable ground. But the business of the pope (that mixed person of politics and religion) has long ceased to be a bugbear: for some time past he has ceased to be even a colourable pretext. This was well known, when the catholics of these kingdoms, for our amusement, were obliged on oath to disclaim him in his political capacity; which implied an allowance for them to recognize him in some sort of ecclesiastical superiority. It was a compromise of the old dispute.

For my part, I confess, I wish that we had been less eager in this point. I don't think indeed that much mischief will happen from it, if things are otherwise properly managed. Too nice an inquisition ought not to be made into opinions that are dying away of themselves. Had we lived an hundred and fifty years ago, I should have been as earnest and anxious as any body for this sort of abjuration: but living at the time in which I live, and obliged to speculate forward instead of backward, I must fairly say, I could well endure the existence of every sort of collateral aid, which opinion might, in the now state of things, afford to authority. I must see much more danger than in my life I have seen, or than others will venture seriously to affirm that they see, in the pope aforesaid, (though a foreign power, and with his long tail of etceteras,) before I should be active in weakening any hold, which government might think it prudent to resort to, in the management of that large part of the king's subjects. I do not choose to direct all my precautions to the part where the danger does not press; and to leave myself open and unguarded, where I am not only really, but visibly attacked.

My whole politics, at present, centre in one point; and to this the merit or demerit of every measure, (with me) is referable; that is, what will most promote or depress the cause of jacobinism. What is jacobinism? It is an attempt (hitherto but too successful) to eradicate prejudice out of the minds of men, for the purpose of putting all power and authority into the hands of the persons capable of occasionally enlightening the minds of the people. For this purpose the jacobins have

resolved to destroy the whole frame and fabric of the old societies of the world; and to regenerate them after their fashion. To obtain an army for this purpose, they every where engage the poor, by holding out to them as a bribe the spoils of the rich. This I take to be a fair description of the principles and leading maxims of the enlightened of our day, who are commonly called jacobins.

As the grand prejudice, and that which holds all the other prejudices together, the first, last, and middle object of their hostility is religion. With that they are at inexpiable war. They make no distinction of sects. A christian, as such, is to them an enemy. What then is left to a real christian, (christian as a believer and as a statesman) but to make a league between all the grand divisions of that name; to protect and to cherish them all; and by no means to proscribe in any manner, more or less, any member of our common party. The divisions which formerly prevailed in the church, with all their overdone zeal, only purified and ventilated our common faith; because there was no common enemy arrayed and embattled to take advantage of their dissentions: but now nothing but inevitable ruin will be the consequence of our quarrels. I think we may dispute, rail, persecute and provoke the catholics out of their prejudices; but it is not in ours they will take refuge. If any thing is, one more than another, out of the power of man, it is to *create* a prejudice. Somebody has said, that a king may make a nobleman, but he cannot make a gentleman.

All the principal religions in Europe stand upon one common bottom. The support that the whole, or the favoured parts, may have, in the secret dispensations of Providence, it is impossible to tell; but, humanly speaking, they are all *prescriptive* religions. They have all stood long enough to make prescription, and its chain of legitimate prejudices, their main stay. The people, who compose the four grand divisions of christianity, have now their religion as an habit, and upon authority, and not on disputation; as all men, who have their religion derived from their parents, and the fruits of education, *must* have it; however, the one, more than the other, may be able to reconcile his faith to his own reason, or to that of other men. Depend upon it, they must all be supported, or they must all fall in the crash of a common ruin. The catholics are the far more numerous part of the christians in your country; and how can christianity (that is now the point in issue) be supported, under the persecution, or even under the discountenance, of the greater number of christians? It is a great truth, and which in one of the debates, I stated as strongly as I could to the house of

commons in the last session, that if the catholic religion is destroyed by the infidels, it is a most contemptible and absurd idea, that this, or any protestant church, can survive that event. Therefore, my humble and decided opinion is, that all the three religions, prevalent more or less in various parts of these islands, ought all, in subordination to the legal establishments, as they stand in the several countries, to be all countenanced, protected and cherished; and that in Ireland particularly, the Roman catholic religion should be upheld in high respect and veneration; and should be, in its place, provided with all the means of making it a blessing to the people who profess it. That it ought to be cherished as a good, (though not as the most preferable good, if a choice was now to be made,) and not tolerated as an inevitable evil. If this be my opinion as to the catholic religion, as a sect, you must see, that I must be to the last degree averse to put a man, upon that account, upon a bad footing, with relation to the privileges which the fundamental laws of this country give him as a subject. I am the more serious on the positive encouragement to be given to this religion, (always however as secondary,) because the serious and earnest belief and practice of it by its professors forms, as things stand, the most effectual barrier, if not the sole barrier, against jacobinism. The catholics form the great body of the lower ranks of your community; and no small part of those classes of the middling that come nearest to them. You know, that the seduction of that part of mankind from the principles of religion, morality, subordination, and social order, is the great object of the Jacobins. Let them grow lax, sceptical, careless, and indifferent with regard to religion, and so sure as we have an existence, it is not a zealous Anglican or Scottish church principle, but direct jacobinism which will enter into that breach. Two hundred years dreadfully spent in experiments to force that people to change the form of their religion, have proved fruitless. You have now your choice for full four-fifths of your people, of the catholic religion or jacobinism. If things appear to you to stand on this alternative, I think you will not be long in making your option.

You have made, as you naturally do, a very able analysis of powers; and have separated, as the things are separable, civil from political powers. You start too a question, whether the civil can be secured, without some share in the political. For my part, as abstract questions, I should find some difficulty in an attempt to resolve them. But as applied to the state of Ireland, to the form of our commonwealth, to the parties that divide us, and to the dispositions of the leading men in those

parties, I cannot hesitate to lay before you my opinion, that whilst any kind of discouragements and disqualifications remain on the catholics, an handle will be made, by a factious power, utterly to defeat the benefits of any civil rights they may apparently possess. I need not go to very remote times for my examples. It was within the course of about a twelvemonth, that after parliament had been led into a step, quite unparalleled in its records; after they had resisted all concession and even hearing, with an obstinacy equal to any thing that could have actuated a party domination in the second or eighth of Queen Anne,—after the strange adventure of the grand juries, and after parliament had listened to the sovereign pleading for the emancipation of his subjects;—it was after all this, that such a grudging and discontent was expressed, as must justly have alarmed, as it did extremely alarm, the whole of the catholic body: and I remember but one period in my whole life, (I mean the savage period between 1761 and 1767) in which they have been more harshly or contumeliously treated, than since the last partial enlargement. And thus I am convinced it will be, by paroxysms, as long as any stigma remains on them, and whilst they are considered as no better than half citizens. If they are kept such for any length of time, they will be made whole jacobins. Against this grand and dreadful evil of our time (I do not love to cheat myself or others) I do not know any solid security whatsoever. But I am quite certain that what will come nearest to it, is to interest as many as you can in the present order of things; religiously, civilly, politically, by all the ties and principles by which mankind are held. This is like to be effectual policy: I am sure it is honourable policy: and it is better to fail, if fail we must, in the paths of direct and manly, than of low and crooked wisdom.

As to the capacity of sitting in parliament, after all the capacities for voting, for the army, for the navy, for the professions, for civil offices, it is a dispute *de lana caprina*, in my poor opinion; at least on the part of those who oppose it. In the first place, this admission to office, and this exclusion from parliament, on the principle of an exclusion from political power, is the very reverse of the principle of the English test act. If I were to form a judgment from experience rather than theory, I should doubt much whether the capacity for, or even the possession of a seat in parliament, did really convey much of power to be properly called political. I have sat there with some observation, for nine-and-twenty years, or thereabouts. The power of a member of parliament is uncertain and indirect: and if power rather than splendour and fame were the object,

I should think that any of the principal clerks in office, to say nothing of their superiors, (several of whom are disqualified by law for seats in parliament) possess far more power than nine-tenths of the members of the house of commons. I might say this of men who seemed from their fortunes, their weight in their country, and their talents, to be persons of figure there; and persons too not in opposition to the prevailing party in government.

But be they what they will, on a fair canvas of the several prevalent parliamentary interests in Ireland, I cannot, out of the three hundred members, of whom the Irish parliament is composed, discover that above three, or at the utmost four catholics, would be returned to the house of commons. But suppose they should amount to thirty, that is to a tenth part, (a thing I hold impossible for a long series of years, and never very likely to happen,) what is this to those, who are to balance them in the one house, and the clear and settled majority in the other? For I think it absolutely impossible, that in the course of many years, above four or five peers should be created of that communion. In fact, the exclusion of them seems to me only to mark jealousy and suspicion, and not to provide security in any way. But I return to the old ground. The danger is not there:—these are things long since done away. The grand controversy is no longer between you and them. Forgive this length. My pen has insensibly run on. You are yourself to blame, if you are much fatigued. I congratulate you on the auspicious opening of your session. Surely Great Britain and Ireland ought to join in wreathing a never-fading garland, for the head of Grattan. Adieu! my dear Sir —good nights to you!—I never can have any.

Yours always most sincerely,

EDMUND BURKE.

Jan. 29th, 1795.
Twelve at night.

A

SECOND LETTER

TO

SIR HERCULES LANGRISHE.

MY DEAR SIR,

If I am not as early as I ought to be in my acknowledgments for your very kind letter, pray do me the justice to attribute my failure to its natural and but too real cause, a want of the most ordinary power of exertion, owing to the impressions made upon an old and infirm constitution by private misfortune and by public calamity. It is true, I make occasional efforts to rouse myself to something better—but I soon relapse into that state of languor, which must be the habit of my body and understanding, to the end of my short and cheerless existence in this world.

I am sincerely grateful for your kindness in connecting the interest you take in the sentiments of an old friend, with the able part you take in the service of your country. It is an instance, among many, of that happy temper, which has always given a character of amenity to your virtues, and a good-natured direction to your talents.

Your speech, on the catholic question, I read with much satisfaction. It is solid; it is convincing; it is eloquent; and it ought, on the spot, to have produced that effect, which its reason, and that contained in the other excellent speeches on the same side of the question, cannot possibly fail (though with less pleasant consequences) to produce hereafter. What a sad thing it is, that the grand instructor, Time, has not yet been able to teach the grand lesson, of his own value; and that in every question of moral and political prudence, it is the choice of the moment which renders the measure serviceable or useless, noxious or salutary.

In the catholic question I considered only one point. Was it, at the time, and in the circumstances, a measure which

tended to promote the concord of the citizens? I have no difficulty in saying, it was; and as little in saying, that the present concord of the citizens was worth buying, at a critical season, by granting a few *capacities* which probably no one man now living is likely to be served or hurt by. When any man tells *you* and *me*, that, if these places were left in the discretion of a protestant crown, and these memberships in the discretion of protestant electors, or patrons, that we should have a popish official system, and a popish representation, capable of overturning the establishment; he only insults our understandings. When any man tells this to *catholics*, he insults their understandings, and he galls their feelings. It is not the question of the places and seats; it is the real hostile disposition, and the *pretended* fears, that leave stings in the minds of the people. I really thought, that in the total of the late circumstances, with regard to persons, to things, to principles, and to measures, was to be found a conjuncture favourable to the introduction, and to the perpetuation of a general harmony, producing a general strength, which to that hour Ireland was never so happy as to enjoy. My sanguine hopes are blasted, and I must consign my feelings on that terrible disappointment, to the same patience in which I have been obliged to bury the vexation I suffered on the defeat of the other great, just, and honourable causes in which I have had some share; and which have given more of dignity, than of peace and advantage, to a long laborious life. Though, perhaps, a want of success might be urged as a reason for making me doubt of the justice of the part I have taken, yet, until I have other lights than one side of the debate has furnished me, I must see things and feel them too, as I see and feel them. I think I can hardly overrate the malignity of the principles of protestant ascendancy, as they affect Ireland; or of indianism, as they affect these countries, and as they affect Asia; or of jacobinism, as they affect all Europe, and the state of human society itself. The last is the greatest evil. But it readily combines with the others, and flows from them. Whatever breeds discontent at this time, will produce that great master mischief most infallibly. Whatever tends to persuade the people, that the *few*, called by whatever name you please, religious or political, are of opinion, that their interest is not compatible with that of the *many*, is a great point gained to jacobinism. Whatever tends to irritate the talents of a country, which have at all times, and at these particularly, a mighty influence on the public mind, is of infinite service to that formidable cause. Unless where heaven has mingled uncom-

mon ingredients of virtue in the composition—*quos meliore Luto finxit præcordia Titan*—talents naturally gravitate to jacobinism. Whatever ill humours are afloat in the state, they will be sure to discharge themselves, in a mingled torrent, in the *cloaca maxima* of jacobinism. Therefore people ought well to look about them. First the physicians are to take care that they do nothing to irritate this epidemical distemper. It is a foolish thing to have the better of the patient in a dispute. The complaint or its cause ought to be removed, and wise and lenient arts ought to precede the measures of vigour. They ought to be the *ultima*, not the *prima*, not the *tota* ratio of a wise government. God forbid, that on a worthy occasion authority should want the means of force or the disposition to use it. But where a prudent and enlarged policy does not precede it, and attend it too, where the hearts of the better sort of people do not go with the hands of the soldiery, you may call your constitution what you will, in effect it will consist of three parts (orders, if you please) cavalry, infantry, and artillery—and of nothing else or better.

I agree with you in your dislike of the discourses in Francis-street: but I like as little some of those in College-green. I am even less pleased with the temper that predominated in the latter, as better things might have been expected in the regular family mansion of public discretion, than in a new and hasty assembly of unexperienced men congregated under circumstances of no small irritation. After people have taken your tests, prescribed by yourselves as proofs of their allegiance, to be marked as enemies, traitors, or at best as suspected and dangerous persons, and that they are not to be believed on their oaths, we are not to be surprised if they fall into a passion, and talk as men in a passion do, intemperately and idly.

The worst of the matter is this: You are partly leading, partly driving into jacobinism, that description of your people, whose religious principles, church polity, and habitual discipline, might make them an invincible dyke against that inundation. This you have a thousand mattocks and pickaxes lifted up to demolish. You make a sad story of the pope!—*O seri studiorum!*—It will not be difficult to get many called catholics to laugh at this fundamental part of their religion. Never doubt it. You have succeeded in part; and you may succeed completely. But in the present state of men's minds and affairs, do not flatter yourselves that they will piously look to the head of our church in the place of that pope, whom you make them forswear; and out of all reverence to whom, you bully, and rail, and buffoon them. Perhaps you may succeed

in the same manner with all the other tenets of doctrine, and usages of discipline, amongst the catholics. But what security have you, that, in the temper, and on the principles on which they have made this change, they will stop at the exact sticking places you have marked in *your* articles? You have no security for any thing, but that they will become, what are called *Franco-Jacobins*, and reject the whole together? No converts now will be made in a considerable number from one of our sects to the other upon a really religious principle. Controversy moves in another direction.

Next to religion, *property* is the great point of jacobin attack. Here many of the debaters in your majority, and their writers, have given the jacobins all the assistance their hearts can wish. When the catholics desire places and seats, you tell them, that this is only a pretext; (though protestants might suppose it just *possible* for men to like good places, and snug boroughs for their own merits); but that their real view is, to strip protestants of their property. To my certain knowledge, till those jacobin lectures were opened in the house of commons, they never dreamt of any such thing: but now, the great professors may stimulate them to inquire (on the new principles) into the foundation of that property; and of all property. If you treat men as robbers, why robbers, sooner or later, they will become.

A third point of jacobin attack, is on *old traditionary constitutions*. You are apprehensive for yours, which leans from its perpendicular, and does not stand firm on its theory. I like parliamentary reforms as little as any man who has boroughs to sell, for money, or for peerages, in Ireland. But it passes my comprehension, in what manner it is, that men can be reconciled to the *practical* merits of a constitution, the theory of which is in litigation, by being *practically* excluded from any of its advantages. Let us put ourselves in the place of these people, and try an experiment of the effects of such a procedure on our own minds. Unquestionably we should be perfectly satisfied when we were told, that houses of parliament, instead of being places of refuge for popular liberty, were citadels for keeping us in order as a conquered people. These things play the jacobin game to a nicety. Indeed, my dear sir, there is not a single particular in the Francis-street declamations, which has not, to your and to my certain knowledge, been taught by the jealous ascendants, sometimes by doctrine, sometimes by example, always by provocation. Remember the whole of 1781, and 1782—in parliament and out of parliament—at this very day, and in the worst acts and designs, observe the tenour of the objections with which the College-green ora-

tors of the ascendancy reproach the catholics. You have observed, no doubt, how much they rely on the affair of Jackson. Is it not pleasant to hear catholics reproached for a supposed connexion—with whom?—With protestant clergymen, with protestant gentlemen! With Mr. Jackson!—With Mr. Rowan, &c. &c.! But *egomet mi ignosco*. Conspiracies and treasons are privileged pleasures, not to be profaned by the impure and unhallowed touch of papists. Indeed, all this will do perhaps well enough with detachments of dismounted cavalry, and fencibles from England. But let us not say to catholics, by way of *argument*, that they are to be kept in a degraded state, because some of them are no better than many of us protestants. The thing I most disliked in some of their speeches (those I mean of the catholics) was what is called the spirit of liberality so much and so diligently taught by the ascendants, by which they are made to abandon their own particular interests, and to merge them in the general discontents of the country. It gave me no pleasure to hear of the dissolution of the committee.—There were in it a majority, to my knowledge, of very sober, well-intentioned men; and there were none in it, but such who, if not continually goaded and irritated, might be made useful to the tranquillity of the country. It is right always to have a few of every description, through whom you may quietly operate on the many, both for the interests of the description, and for the general interest. Excuse me, my dear friend, if I have a little tried your patience. You have brought this trouble on yourself, by your thinking of a man forgot, and who has no objection to be forgot, by the world. These things we discussed together four or five-and-thirty years go. We were then, and at bottom, ever since, of the same opinion on the justice and policy of the whole, and of every part of the penal system. You and I, and every body, must now and then ply and bend to the occasion, and take what can be got. But very sure I am, that whilst there remains in the law any principle whatever, which can furnish to certain politicians an excuse for raising an opinion of their own importance as necessary to keep their fellow subjects in order, the obnoxious people will be fretted, harassed, insulted, provoked to discontent and disorder, and practically excluded from the partial advantages from which the letter of the law does not exclude them.

Adieu! my dear sir, and believe me very truly

Your's,

Beaconsfield,
May 26, 1795.

EDMUND BURKE.

LETTER

TO

RICHARD BURKE, ESQ.

MY DEAR SON,

We are all again assembled in town, to finish the last, but the most laborious of the tasks which have been imposed upon me during my parliamentary service. We are as well as, at our time of life, we can expect to be. We have indeed some moments of anxiety about you. You are engaged in an undertaking similar in its principle to mine. You are engaged in the relief of an oppressed people. In that service you must necessarily excite the same sort of passions in those who have exercised, and who wish to continue that oppression, that I have had to struggle with in this long labour. As your father has done, you must make enemies of many of the rich, of the proud, and of the powerful. I and you began in the same way. I must confess, that if our place was of our choice, I could wish it had been your lot to begin the career of your life with an endeavour to render some more moderate, and less invidious service to the public. But being engaged in a great and critical work, I have not the least hesitation about your having hitherto done your duty as becomes you. If I had not an assurance not to be shaken, from the character of your mind, I should be satisfied on that point, by the cry that is raised against you. If you had behaved, as they call it, discreetly, that is, faintly and treacherously, in the execution of your trust, you would have had for a while the good word of all sorts of men; even of many of those whose cause you had betrayed; and whilst your favour lasted, you might have coined that false reputation into a true and solid interest to yourself. This you are well apprized of; and you do not refuse to travel that beaten road from an ignorance, but from a contempt of the objects it leads to.

When you choose an arduous and slippery path, God forbid that any weak feelings of my declining age, which calls for soothings and supports, and which can have none but from you, should make me wish that you should abandon what you are about, or should trifle with it. In this house we submit, though with troubled minds, to that order which has connected all great duties with toils and with perils, which has conducted the road to glory through the regions of obloquy and reproach, and which will never suffer the disparaging alliance of spurious, false, and fugitive praise, with genuine and permanent reputation. We know, that the power which has settled that order, and subjected you to it, by placing you in the situation you are in, is able to bring you out of it, with credit and with safety. His will be done. All must come right. You may open the way with pain, and under reproach. Others will pursue it with ease and with applause.

I am sorry to find that pride and passion, and that sort of zeal for religion, which never shows any wonderful heat but when it afflicts and mortifies our neighbour, will not let the ruling description perceive that the privilege for which your clients contend, is very nearly as much for the benefit of those who refuse it, as those who ask it. I am not to examine into the charges that are daily made on the administration of Ireland. I am not qualified to say how much in them is cold truth, and how much rhetorical exaggeration. Allowing some foundation to the complaint, it is to no purpose that these people allege that their government is a job in its administration. I am sure it is a job in its constitution; nor is it possible a scheme of polity which, in total exclusion of the body of the community, confines (with little or no regard to their rank or condition in life) to a certin set of favoured citizens the rights which formerly belonged to the whole, should not, by the operation of the same selfish and narrow principles, teach the persons who administer in that government, to prefer their own particular, but well understood private interest, to the false and ill calculated private interest of the monopolizing company they belong to. Eminent characters, to be sure, overrule places and circumstances. I have nothing to say to that virtue which shoots up in full force by the native vigour of the seminal principle, in spite of the adverse soil and climate that it grows in. But, speaking of things in their ordinary course, in a country of monopoly there *can* be no patriotism. There may be a party spirit—but public spirit there can be none. As to a spirit of liberty, still less can it exist, or any thing like it. A liberty made up of penalties! a liberty made up of incapacities! a li-

berty made up of exclusion and proscription, continued for ages of four-fifths, perhaps, of the inhabitants of all ranks and fortunes! In what does such liberty differ from the description of the most shocking kind of servitude?

But it will be said, in that country some people are free—why this is the very description of despotism. *Partial freedom is privilege and prerogative, and not liberty.* Liberty, such as deserves the name, is an honest, equitable, diffusive, and impartial principle. It is a great and enlarged virtue, and not a sordid, selfish, and illiberal vice. It is the portion of the mass of the citizens; and not the haughty license of some potent individual, or some predominant faction.

If any thing ought to be despotic in a country, it is its government; because there is no cause, of constant operation, to make its yoke unequal. But the dominion of a party must continually, steadily, and by its very essence, lean upon the prostrate description. A constitution formed so as to enable a party to overrule its very government, and to overpower the people too, answers the purposes neither of government nor of freedom. It compels that power, which ought, and often would be, disposed *equally* to protect the subjects, to fail in its trust, to counteract its purposes, and to become no better than the instrument of the wrongs of a faction. Some degree of influence must exist in all governments. But a government which has no interest to please the body of the people, and can neither support them, nor with safety call for their support, nor is of power to sway the domineering faction, can only exist by corruption; and taught by that monopolizing party which usurps the title and qualities of the public, to consider the body of the people as out of the constitution, they will consider those who are in it in the light in which they choose to consider themselves. The whole relation of government and of freedom will be a battle or a traffick.

This system, in its real nature, and under its proper appellations, is odious and unnatural, especially when a constitution is admitted, which not only, as all constitutions do profess, has a regard to the good of the multitude, but in its theory makes profession of their power also. But of late, this scheme of theirs has been new christened—*honestum nomen imponitur vitio.* A word has been lately struck in the mint of the castle of Dublin; thence it was conveyed to the Tholsel, or City-hall, where having passed the touch of the corporation, so respectably stamped and vouched, it soon became current in parliament, and was carried back by the speaker of the house of commons in great pomp, as an offering of homage from whence

it came. The word is *ascendancy:* It is not absolutely new. But the sense in which I have hitherto seen it used, was to signify an influence obtained over the minds of some other person by love and reverence, or by superior management and dexterity. It had, therefore, to this its promotion, no more than a moral, not a civil or political use. But I admit it is capable of being so applied; and if the lord mayor of Dublin, and the speaker of the Irish parliament, who recommend the preservation of the protestant ascendancy, mean to employ the word in that sense, that is, if they understand by it the preservation of the influence of that description of gentlemen over the catholics, by means of an authority derived from their wisdom and virtue, and from an opinion they raise in that people of a pious regard and affection for their freedom and happiness, it is impossible not to commend their adoption of so apt a term into the family of politics. It may be truly said to enrich the language. Even if the lord mayor and speaker mean to insinuate that this influence is to be obtained and held by flattering their people, by managing them by skilfully adapting themselves to the humours and passions of those whom they would govern, he must be a very untoward critic who would cavil even at this use of the word, though such cajoleries would perhaps be more prudently practised than professed. These are all meanings laudable, or at least tolerable. But when we look a little more narrowly, and compare it with the plan to which it owes its present technical application, I find it has strayed far from its original sense. It goes much further than the privilege allowed by Horace. It is more than *parce delorsum.* This protestant ascendancy means nothing less than an influence obtained by virtue, by love, or even by artifice and seduction; full as little an influence derived from the means by which ministers have obtained an influence, which might be called, without straining, an *ascendancy* in public assemblies in England, that is, by a liberal distribution of places and pensions and other graces of government. This last is wide indeed of the signification of the word. New *ascendancy* is the old mastership. It is neither more nor less than the resolution of one set of people in Ireland, to consider themselves as the sole citizens in the commonwealth; and to keep a dominion over the rest by reducing them to absolute slavery, under a military power; and thus fortified in their power, to divide the public estate, which is the result of general contribution, as a military booty, solely amongst themselves.

The poor word ascendancy, so soft and melodious in its sound, so lenitive and emollient in its first usage, is now em-

ployed to cover to the world, the most rigid and perhaps not the most wise of all plans of policy. The word is large enough in its comprehension. I cannot conceive what mode of oppression in civil life, or what mode of religious persecution, may not come within the methods of preserving an *ascendancy*. In plain old English, as they apply it, it signifies *pride and dominion* on the one part of the relation, and on the other *subserviency and contempt*—and it signifies nothing else. The old words are as fit to be set to music as the new; but use has long since affixed to them their true signification, and they sound, as the other will, harshly and odiously to the moral and intelligent ears of mankind.

This ascendancy, by being a *protestant* ascendancy, does not better it from the combination of a note or two more in this anti-harmonic scale. If protestant ascendancy means the proscription from citizenship of by far the major part of the people of any country, then protestant ascendancy is a bad thing; and it ought to have no existence. But there is a deeper evil. By the use that is so frequently made of the term, and the policy which is engrafted on it, the name protestant becomes nothing more or better than the name of a persecuting faction, with a relation of some sort of theological hostility to others, but without any sort of ascertained tenets of its own, upon the ground of which it persecutes other men; for the patrons of this protestant ascendancy neither do nor can, by any thing positive, define or describe what they mean by the word protestant. It is defined, as Cowley defines wit, not by what it is, but by what it is not. It is not the christian religion as professed in the churches holding communion with Rome, the majority of christians; that is all which in the latitude of the term is known about its signification. This makes such persecutors ten times worse than any of that description that hitherto have been known in the world. The old persecutors, whether pagan or christian, whether arian or orthodox, whether catholics, anglicans, or calvinists, actually were, or at least had the decorum to pretend to be, strong dogmatists. They pretended that their religious maxims were clear and ascertained, and so useful, that they were bound, for the eternal benefit of mankind, to defend or diffuse them, though by any sacrifices of the temporal good of those who were the objects of their system of experiment.

The bottom of this theory of persecution is false. It is not permitted to us to sacrifice the temporal good of any body of men to our own ideas of the truth and falsehood of any religious opinions. By making men miserable in this life, they counter-

act one of the great ends of charity; which is, inasmuch as in us lies, to make men happy in every period of their existence, and most, in what most depends upon us. But give to these old persecutors their mistaken principle, in their reasoning they are consistent, and in their tempers they may be even kind and good natured. But whenever a faction would render millions of mankind miserable, some millions of the race co-existent with themselves, and many millions in their succession, without knowing or so much as pretending to ascertain the doctrines of their own school, (in which there is much of the lash and nothing of the lesson,) the errors which the persons in such a faction fall into are not those that are natural to human imbecility, nor is the least mixture of mistaken kindness to mankind an ingredient in the severities they inflict. The whole is nothing but pure and perfect malice. It is indeed a perfection in that kind belonging to beings of an higher order than man, and to them we ought to leave it.

This kind of persecutors, without zeal, without charity, know well enough that religion, to pass by all questions of the truth or falsehood of any of its particular systems (a matter I abandon to the theologians on all sides) is a source of great comfort to us mortals, in this our short, but tedious journey through the world. They know, that to enjoy this consolation, men must believe their religion upon some principle or other, whether of education, habit, theory, or authority. When men are driven from any of those principles, on which they have received religion, without embracing with the same assurance and cordiality some other system, a dreadful void is left in their minds, and a terrible shock is given to their morals. They lose their guide, their comfort, their hope. None but the most cruel and hard-hearted of men, who had banished all natural tenderness from their minds, such as those beings of iron, the atheists, could bring themselves to any persecution like this. Strange it is, but so it is, that men, driven by force from their habits in one mode of religion, have by contrary habits, under the same force, often quietly settled in another. They suborn their reason to declare in favour of their necessity. Man and his conscience cannot always be at war. If the first races have not been able to make a pacification between the conscience and the convenience, their descendants come generally to submit to the violence of the laws, without violence to their minds. As things stood formerly, they possessed a *positive* scheme of direction, and of consolation. In this men may acquiesce. The harsh methods in use with the old class of persecutors, were to make converts, not apostates only. If they perverse-

ly hated other sects and factions, they loved their own inordinately. But in this protestant persecution, there is any thing but benevolence at work. What do the Irish statutes? They do not make a conformity to the *established* religion, and to its doctrines and practices, the condition of getting out of servitude. No such thing. Let three million of people but abandon all that they and their ancestors have been taught to believe sacred, and to forswear it publicly in terms the most degrading, scurrilous, and indecent for men of integrity and virtue, and to abuse the whole of their former lives, and to slander the education they have received, and nothing more is required of them. There is no system of folly, or impiety, or blasphemy, or atheism, into which they may not throw themselves, and which they may not profess openly and as a system, consistently with the enjoyment of all the privileges of a free citizen in the happiest constitution in the world.

Some of the unhappy assertors of this strange scheme say, they are not persecutors on account of religion. In the first place, they say what is not true. For what else do they disfranchise the people? If the man gets rid of a religion, through which their malice operates, he gets rid of all their penalties and incapacities at once. They never afterwards inquire about him. I speak here of their pretexts, and not of the true spirit of the transaction, in which religious bigotry I apprehend has little share. Every man has his taste; but I think, if I were so miserable and undone as to be guilty of premeditated and continued violence towards any set of men, I had rather that my conduct was supposed to arise from wild conceits concerning their religious advantages, than from low and ungenerous motives relative to my own selfish interest. I had rather be thought insane in my charity than rational in my malice. This much, my dear son, I have to say of this protestant persecution; that is, a persecution of religion itself.

A very great part of the mischiefs that vex the world, arises from words. People soon forget the meaning, but the impression and the passion remain. The word protestant is the charm that locks up in the dungeon of servitude three millions of your people. It is not amiss to consider this spell of potency, this abracadabra that is hung about the necks of the unhappy, not to heal, but to communicate disease. We sometimes hear of a protestant *religion*, frequently of a protestant *interest*. We hear of the latter the most frequently, because it has a positive meaning. The other has none. We hear of it the most frequently, because it has a word in the phrase, which, well or ill

understood, has animated to persecution and oppression at all times infinitely more than all the dogmas in dispute between religious factions. These are indeed well formed to perplex and torment the intellect; but not half so well calculated to inflame the passions and animosities of men.

I do readily admit, that a great deal of the wars, seditions and troubles of the world, did formerly turn upon the contention between *interests* that went by the names of protestant and catholic. But I imagined that at this time no one was weak enough to believe, or impudent enough to pretend, that questions of popish and protestant opinions or interest are the things by which men are at present menaced with crusades by foreign invasion, or with seditions which shake the foundations of the state at home. It is long since all this combination of things has vanished from the view of intelligent observers. The existence of quite another system of opinions and interests is now plain to the grossest sense. Are these the questions that raise a flame in the minds of men at this day? If ever the church and the constitution of England should fall in these islands (and they will fall together) it is not presbyterian discipline, nor popish hierarchy, that will rise upon their ruins. It will not be the church of Rome, nor the church of Scotland—not the church of Luther, nor the church of Calvin. On the contrary, all these churches are menaced, and menaced alike. It is the new fanatical religion, now in the heat of its first ferment, of the rights of man, which rejects all establishments, all discipline, all ecclesiastical, and in truth all civil order, which will triumph, and which will lay prostrate your church; which will destroy your distinctions, and which will put all your properties to auction, and disperse you over the earth. If the present establishment should fall, it is this religion which will triumph in Ireland and in England, as it has triumphed in France. This religion, which laughs at creeds and dogmas and confessions of faith, may be fomented equally amongst all descriptions, and all sects; amongst nominal catholics, and amongst nominal churchmen; and amongst those dissenters who know little and care less, about a presbytery, or any of its discipline, or any of its doctrine.

Against this new, this growing, this exterminatory system, all these churches have a common concern to defend themselves. How the enthusiasts of this rising sect rejoice to see you of the old churches play their game, and stir and rake the cinders of animosities sunk in their ashes, in order to keep up the execution of their plan for your common ruin!

I suppress all that is in my mind about the blindness of those of our clergy who will shut their eyes to a thing which glares in such manifest day. If some wretches amongst an indigent and disorderly part of the populace raise a riot about tythes, there are of these gentlemen ready to cry out, that this is an overt act of a treasonable conspiracy. Here the bulls and the pardons, and the crusade and the pope, and the thunders of the vatican, are every where at work. There is a plot to bring in a foreign power to destroy the church. Alas! it is not about popes, but about potatoes, that the minds of this unhappy people are agitated. It is not from the spirit of zeal, but the spirit of whiskey, that these wretches act. Is it then not conceived possible that a poor clown can be unwilling, after paying three pounds rent to a gentleman in a brown coat, to pay fourteen shillings to one in a black coat, for his acre of potatoes, and tumultuously to desire some modification of the charge, without being supposed to have no other motive than a frantic zeal for being thus double-taxed to another set of landholders, and another set of priests? Have men no self interest? No avarice? No repugnance to public imposts? Have they no sturdy and restive minds? No undisciplined habits? Is there nothing in the whole mob of irregular passions, which might precipitate some of the common people, in some places, to quarrel with a legal, because they feel it to be a burthensome imposition? According to these gentlemen, no offence can be committed by papists but from zeal to their religion. To make room for the vices of papists, they clear the house of all the vices of men. Some of the common people (not one however in ten thousand) commit disorders. Well! punish them as you do, and as you ought to punish them for their violence against the just property of each individual clergyman, as each individual suffers. Support the injured rector or the injured impropriator in the enjoyment of the estate of which (whether on the best plan or not) the laws have put him in possession. Let the crime and the punishment stand upon their own bottom. But now we ought all of us, clergymen most particularly, to avoid assigning another cause of quarrel, in order to infuse a new source of bitterness into a dispute (which personal feelings on both sides will of themselves make bitter enough) and thereby involve in it, by religious descriptions, men who have individually no share whatsoever in those irregular acts. Let us not make the malignant fictions of our own imaginations, heated with factious controversies, reasons for keeping men that are neither guilty, nor justly suspected of crime, in a servitude equally dishonourable and unsafe to religion, and to the state.

When men are constantly accused, but know themselves not to be guilty, they must naturally abhor their accusers. There is no character, when malignantly taken up and deliberately pursued, which more naturally excites indignation and abhorrence in mankind; especially in that part of mankind which suffers from it.

I do not pretend to take pride in an extravagant attachment to any sect. Some gentlemen in Ireland affect that sort of glory. It is to their taste. Their piety, I take it for granted, justifies the fervour of their zeal, and may palliate the excess of it. Being myself no more than a common layman, commonly informed in controversies, leading only a very common life, and having only a common citizen's interest in the church or in the state, yet to you I will say, in justice to my own sentiments, that not one of those zealots for a protestant interest, wishes more sincerely than I do, perhaps not half so sincerely, for the support of the established church in both these kingdoms. It is a great link towards holding fast the connexion of religion with the state; and for keeping these two islands, in their present critical independence of constitution, in a close connexion of *opinion and affection*. I wish it well, as the religion of the greater number of the primary land proprietors of the kingdom, with whom all establishments of church and state, for strong political reasons, ought in my opinion to be firmly connected. I wish it well, because it is more closely combined than any other of the church systems with the *crown*, which is the stay of the mixed constitution; because it is, as things now stand, the sole connecting *political* principle between the constitutions of the two independent kingdoms. I have another, and infinitely a stronger reason for wishing it well; it is, that in the present time I consider it as one of the main pillars of the christian religion itself. The body and substance of every religion I regard much more than any of the forms and dogmas of the particular sects. Its fall would leave a great void which nothing else of which I can form any distinct idea might fill. I respect the catholic hierarchy, and the presbyterian republic. But I know that the hope, or the fear of establishing either of them, is in these kingdoms equally chimerical, even if I preferred one or the other of them to the establishment, which certainly I do not.

These are some of my reasons for wishing the support of the church of Ireland as by law established. These reasons are founded as well on the absolute as on the relative situation of that kingdom. But is it because I love the church, and the king, and the privileges of parliament, that I am to be ready

for any violence, or any injustice, or any absurdity in the means of supporting any of these powers, or all of them together? Instead of prating about protestant ascendancies, protestant parliaments ought, in my opinion, to think at last of becoming patriot parliaments.

The legislature of Ireland, like all legislatures, ought to frame its laws to suit the people and the circumstances of the country, and not any longer to make it their whole business to force the nature, the temper, and the inveterate habits of a nation, to a conformity to speculative systems, concerning any kind of laws. Ireland has an established government, and a religion legally established, which are to be preserved. It has a people who are to be preserved too, and to be led by reason, principle, sentiment and interest, to acquiesce in that government. Ireland is a country under peculiar circumstances. The people of Ireland are a very mixed people; and the quantities of the several ingredients in the mixture are very much disproportioned to each other. Are we to govern this mixed body as if it were composed of the most simple elements, comprehending the whole in one system of benevolent legislation; or are we not rather to provide for the several parts according to the various and diversified necessities of the heterogeneous nature of the mass? Would not common reason and common honesty dictate to us the policy of regulating the people in the several descriptions of which they are composed, according to the natural ranks and classes of an orderly civil society, under a common protecting sovereign, and under a form of constitution favourable at once to authority and to freedom; such as the British constitution boasts to be, and such as it is, to those who enjoy it.

You have an ecclesiastical establishment, which, though the religion of the prince, and of most of the first class of landed proprietors, is not the religion of the major part of the inhabitants, and which consequently does not answer to *them*, any one purpose of a religious establishment. This is a state of things, which no man in his senses can call perfectly happy. But it is the state of Ireland. Two hundred years of experiment show it to be unalterable. Many a fierce struggle has passed between the parties. The result is—you cannot make the people protestants—and they cannot shake off a protestant government. This is what experience teaches, and what all men of sense, of all descriptions, know. To-day the question is this—are we to make the best of this situation, which we cannot alter? The question is—shall the condition of the body of the people be alleviated in other things, on account

of their necessary suffering, from their being subject to the burthens of two religious establishments, from one of which they do not partake the least, living or dying, either of instruction or of consolation; or shall it be aggravated by stripping the people thus loaded, of every thing which might support and indemnify them in this state, so as to leave them naked of every sort of right, and of every name of franchise; to outlaw them from the constitution, and to cut off (perhaps) three millions of plebeian subjects, without reference to property, or any other qualification, from all connexion with the popular representation of the kingdom?

As to religion, it has nothing at all to do with the proceeding. Liberty is not sacrificed to a zeal for religion; but a zeal for religion is pretended and assumed, to destroy liberty. The catholic religion is completely free. It has no establishment; but it is recognized, permitted, and in a degree protected by the laws. If a man is satisfied to be a slave, he may be a papist with perfect impunity. He may say mass, or hear it, as he pleases; but he must consider himself as an outlaw from the British constitution. If the constitutional liberty of the subject were not the thing aimed at, the direct reverse course would be taken. The franchise would have been permitted, and the mass exterminated. But the conscience of a man left, and a tenderness for it hypocritically pretended, is to make it a trap to catch his liberty.

So much is this the design, that the violent partizans of this scheme fairly take up all the maxims and arguments, as well as the practices by which tyranny has fortified itself at all times. Trusting wholly in their strength and power (and upon this they reckon, as always ready to strike wherever they wish to direct the storm) they abandon all pretext of the general good of the community. They say, that if the people, under any given modification, obtain the smallest portion or particle of constitutional freedom, it will be impossible for them to hold their property. They tell us, that they act only on the defensive. They inform the public of Europe, that their estates are made up of forfeitures and confiscations from the natives:—that if the body of people obtain votes, any number of votes, however small, it will be a step to the choice of members of their own religion:—that the house of commons, in spite of the influence of nineteen parts in twenty of the landed interest now in their hands, will be composed, in the whole, or in far the major part, of papists: that this popish house of commons will instantly pass a law to confiscate all their estates, which it will not be in their power to save, even

by entering into that popish party themselves, because there are prior claimants to be satisfied:—that as to the house of lords, though neither papists nor protestants have a share in electing them, the body of the peerage will be so obliging and disinterested, as to fall in with this exterminatory scheme, which is to forfeit all their estates, the largest part of the kingdom; and, to crown all, that his majesty will give his cheerful assent to this causeless act of attainder of his innocent and faithful protestant subjects;—that they will be, or are to be left, without house or land, to the dreadful resource of living by their wits, out of which they are already frightened by the apprehension of this spoliation with which they are threatened:—that therefore they cannot so much as listen to any arguments drawn from equity or from national or constitutional policy: the sword is at their throats; beggary and famine at their door. See what it is to have a good look out, and to see danger at the end of a sufficiently long perspective!

This is indeed to speak plain, though to speak nothing very new. The same thing has been said in all times and in all languages. The language of tyranny has been invariable; the general good is inconsistent with my personal safety. Justice and liberty seem so alarming to these gentlemen, that they are not ashamed even to slander their own titles; to calumniate, and call in doubt their right to their own estates, and to consider themselves as novel disseizers, usurpers, and intruders, rather than lose a pretext for becoming oppressors of their fellow citizens, whom they (not I) choose to describe themselves as having robbed.

Instead of putting themselves in this odious point of light, one would think they would wish to let time draw his oblivious veil over the unpleasant modes by which lordships and demesnes have been acquired in theirs, and almost in all other countries upon earth. It might be imagined, that, when the sufferer (if a sufferer exists) had forgot the wrong, they would be pleased to forget it too; that they would permit the sacred name of possession to stand in the place of the melancholy and unpleasant title of grantees of confiscation; which, though firm and valid in law, surely merits the name that a great Roman jurist gave to a title at least as valid in his nation, as confiscation would be either in his or in ours:—*Tristis et luctuosa successio.*

Such is the situation of every man who comes in upon the ruin of another—his succeeding, under this circumstance, is *tristis et luctuosa successio.* If it had been the fate of any gentleman to profit by the confiscation of his neighbour, one

would think he would be more disposed to give him a valuable interest under him in his land; or to allow him a pension, as I understand one worthy person has done, without fear or apprehension that his benevolence to a ruined family would be construed into a recognition of the forfeited title. The public of England the other day acted in this manner towards Lord Newburgh, a catholic. Though the estate had been vested by law in the greatest of the public charities, they have given him a pension from his confiscation. They have gone further in other cases. On the last rebellion in 1745, in Scotland, several forfeitures were incurred. They had been disposed of by parliament to certain laudable uses. Parliament reversed the method which they had adopted in Lord Newburgh's case, and in my opinion did better; they gave the forfeited estates to the successors of the forfeiting proprietors, chargeable in part with the uses. Is this, or any thing like this asked, in favour of any human creature in Ireland? It is bounty; it is charity; wise bounty and politic charity; but no man can claim it as a right. Here no such thing is claimed as right, or begged as charity. The demand has an object as distant from all considerations of this sort, as any two extremes can be. The people desire the privileges inseparably annexed, since magna charta, to the freehold which they have by descent, or obtain as the fruits of their industry. They call for no man's estate; they desire not to be dispossessed of their own.

But this melancholy and invidious title is a favourite (and like favourites, always of the least merit) with those who possess every other title upon earth along with it. For this purpose, they revive the bitter memory of every dissention which has torn to pieces their miserable country for ages. After what has passed in 1782, one would not think that decorum, to say nothing of policy, would permit them to call up, by magic charms, the grounds, reasons, and principles of those terrible, confiscatory, and exterminatory periods. They would not set men upon calling from the quiet sleep of death any Samuel, to ask him, by what act of arbitrary monarchs, by what inquisitions of corrupted tribunals, and tortured jurors; by what fictitious tenures, invented to dispossess whole unoffending tribes and their chieftains? They would not conjure up the ghosts from the ruins of castles and churches, to tell for what attempt to struggle for the independence of an Irish legislature, and to raise armies of volunteers, without regular commissions from the crown, in support of that independence, the estates of the old Irish nobility and gentry had been confiscated. They would not wantonly call on those phantoms, to tell by what

English acts of parliament, forced upon two reluctant kings, the lands of their country were put up to a mean and scandalous auction in every goldsmith's shop in London; or chopped to pieces, and cut into rations, to pay the mercenary soldiery of a regicide usurper. They would not be so fond of titles under Cromwell, who, if he avenged an Irish rebellion against the sovereign authority of the parliament of England, had himself rebelled against the very parliament whose sovereignty he asserted, full as much as the Irish nation, which he was sent to subdue and confiscate, could rebel against that parliament, or could rebel against the king, against whom both he and the parliament which he served and which he betrayed, had both of them rebelled.

The gentlemen, who hold the language of the day, know perfectly well, that the Irish in 1641 pretended at least, that they did not rise against the king, nor in fact did they, whatever constructions law might put upon their act. But full surely they rebelled against the authority of the parliament of England, and they openly professed so to do. Admitting (I have now no time to discuss the matter) the enormous and unpardonable magnitude of this their crime, they rued it in their persons, and in those of their children and their grand-children, even to the fifth and sixth generation. Admitting, then, the enormity of this unnatural rebellion, in favour of the independence of Ireland, will it follow, that it must be avenged for ever? Will it follow that it must be avenged on thousands, and perhaps hundreds of thousands of those whom they can never trace, by the labours of the most subtle metaphysician of the traduction of crimes, or the most inquisitive genealogist of proscription, to the descendant of any one concerned in that nefarious Irish rebellion against the parliament of England.

If, however, you could find out these pedigrees of guilt, I do not think the difference would be essential. History records many things which ought to make us hate evil actions; but neither history, nor morals, nor policy, can teach us to punish innocent men on that account. What lesson does the iniquity of prevalent factions read to us? It ought to lesson us into an abhorrence of the abuse of our own power in our own day; when we hate its excesses so much in other persons and in other times. To that school true statesmen ought to be satisfied to leave mankind. They ought not to call from the dead all the discussions and litigations which formerly inflamed the furious factions which had torn their country to pieces; they ought not to rake into the hideous and abominable things

which were done in the turbulent fury of an injured, robbed, and persecuted people, and which were afterwards cruelly revenged in the execution, and as outrageously and shamefully exaggerated in the representation, in order, an hundred and fifty years after, to find some colour for justifying them in the eternal proscription and civil excommunication of a whole people.

Let us come to a later period of those confiscations, with the memory of which the gentlemen who triumph in the acts of 1782, are so much delighted. The Irish again rebelled against the English parliament in 1688; and the English parliament again put up to sale the greatest part of their estates. I do not presume to defend the Irish for this rebellion; nor to blame the English parliament for this confiscation. The Irish, it is true, did not revolt from King James's power. He threw himself upon their fidelity, and they supported him to the best of their feeble power. Be the crime of that obstinate adherence to an abdicated sovereign against a prince whom the parliaments of Ireland and Scotland had recognized, what it may, I do not mean to justify this rebellion more than the former. It might, however, admit some palliation in them. In generous minds some small degree of compassion might be excited for an error, where they were misled, as Cicero says to a conqueror, *quadam specie et similitudine pacis*, not without a mistaken appearance of duty, and for which the guilty have suffered by exile abroad, and slavery at home, to the extent of their folly or their offence. The best calculators compute that Ireland lost two hundred thousand of her inhabitants in that struggle. If the principle of the English and Scottish resistance at the revolution, is to be justified (as sure I am it is) the submission of Ireland must be somewhat extenuated. For if the Irish resisted King William, they resisted him on the very same principle that the English and Scotch resisted King James. The Irish Catholics must have been the very worst and the most truly unnatural of rebels, if they had not supported a prince whom they had seen attacked, not for any designs against *their* religion, or *their* liberties, but for an extreme partiality for their sect; and who, far from trespassing on *their* liberties and properties, secured both them and the independence of their country, in much the same manner that we have seen the same things done at the period of 1782—I trust the last revolution in Ireland.

That the Irish parliament of King James did in some particulars, though feebly, imitate the rigour which had been used towards the Irish, is true enough. Blameable enough they

ore for what they had done, though under the greatest possi-
le provocation; I shall never praise confiscations or counter-
onfiscations as long as I live. When they happen by neces-
sity, I shall think the necessity lamentable and odious: I shall
think that any thing done under it ought not to pass into pre-
cedent, or to be adopted by choice, or to produce any of those
shocking retaliations which never suffer dissentions to subside.
Least of all would I fix the transitory spirit of civil fury, by
perpetuating and methodizing it in tyrannic government. If it
were permitted to argue with power, might one not ask these
gentlemen, whether it would not be more natural, instead of
wantonly mooting these questions concerning their property
as if it were an exercise in law, to found it on the solid rock
of prescription; the soundest, the most general, and the most
recognized title between man and man that is known in munici-
pal or in public jurisprudence; a title, in which not arbitrary
institutions, but the eternal order of things gives judgment; a
title which is not the creature, but the master of positive law;
a title which, though not fixed in its term, is rooted in its prin-
ciple, in the law of nature itself, and is indeed the original
ground of all known property; for all property in soil will
always be traced back to that source, and will rest there. The
miserable natives of Ireland, who ninety-nine in an hundred
are tormented with quite other cares, and are bowed down to
labour for the bread of the hour, are not, as gentlemen pre-
tend, plodding with antiquaries for titles of centuries ago to
the estates of the great lords and squires, for whom they
labour. But if they were thinking of the titles which gentle-
men labour to beat into their heads, where can they bottom
their own claims, but in a presumption and a proof that these
lands had at some time been possessed by their ancestors?
These gentlemen, for they have lawyers amongst them, know
as well as I, that in England we have had always a prescrip
tion or limitation, as all nations have, against each other. Th
crown was excepted; but that exception is destroyed, and w
have lately established a sixty years possession as against t
crown. All titles terminate in prescription; in which (di
rently from Time in the fabulous instances) the son devo
the father, and the last prescription eats up all the former
* * * \

LETTER

ON

THE AFFAIRS OF IRELAND,

WRITTEN IN THE YEAR 1797.*

DEAR SIR,

In the reduced state of body, and in the dejected state of mind, in which I find myself at this very advanced period of my life, it is a great consolation to me to know, that a cause, I ever have had so very near my heart, is taken up by a man of your activity and talents.

It is very true that your late friend, my ever dear and honoured son, was in the highest degree solicitous about the final event of a business, which he also had pursued for a long time with infinite zeal, and no small degree of success. It was not above half an hour before he left me for ever, that he spoke with considerable earnestness on this very subject. If I had needed any incentives to do my best for freeing the body of my country from the grievances under which they labour, this alone would certainly call forth all my endeavours.

The person who succeeded to the government of Ireland about the time of that afflicting event, had been all along of my sentiments and your's upon this subject; and far from needing to be stimulated by me, that incomparable person, and those in whom he strictly confided, even went before me in their resolution to pursue the great end of government, the satisfaction and concord of the people, with whose welfare they were charged. I cannot bear to think on the causes by which this great plan of policy, so manifestly beneficial to both kingdoms, has been defeated.

* For some account of the manuscript from which this letter is printed, see the introductory letter, p. 5.

Your mistake with regard to me lies in supposing that I did not, when his removal was in agitation, strongly and personally represent to several of his majesty's ministers, to whom I could have the most ready access, the true state of Ireland; and the mischiefs, which sooner or later must arise, from subjecting the mass of the people to the capricious and interested domination of an exceeding small faction and its dependencies.

That representation was made the last time, or very nearly the last time, that I have ever had the honour of seeing those ministers. I am so far from having any credit with them on this, or any other public matters, that I have reason to be certain, if it were known that any person in office in Ireland, from the highest to the lowest, were influenced by my opinions and disposed to act upon them, such an one would be instantly turned out of his employment. You have formed, to my person a flattering, yet in truth a very erroneous opinion of my power with those who direct the public measures. I never have been directly or indirectly consulted about any thing that is done. The judgment of the eminent and able persons, who conduct public affairs, is undoubtedly superior to mine: but self partiality induces almost every man to defer something to his own. Nothing is more notorious, than that I have the misfortune of thinking that no one capital measure relative to political arrangements, and still less that a new military plan for the defence of either kingdom, in this arduous war, has been taken upon any other principle, than such as must conduct us to inevitable ruin.

In the state of my mind, so discordant with the tone of ministers, and still more discordant with the tone of opposition, you may judge what degree of weight I am likely to have with either of the parties, who divide this kingdom; even though I were endowed with strength of body, or were possessed of any active situation in the government, which might give success to my endeavours: but the fact is, since the day of my unspeakable calamity, except in the attentions of a very few old and compassionate friends, I am totally out of all social intercourse. My health has gone down very rapidly; and I have been brought hither with very faint hopes of life, and enfeebled to such a degree, as those, who had known me some time ago, could scarcely think credible. Since I came hither my sufferings have been greatly aggravated, and my little strength still further reduced; so that, though I am told the symptoms of my disorder begin to carry a more favourable aspect, I pass the far larger part of the twenty-four hours, indeed almost the whole, either in my bed, or lying upon the couch, from which I

dictate this. Had you been apprized of this circumstance, you could not have expected any thing, as you seem to do, from my active exertions. I could do nothing, if I was still stronger, not even "*Si meus adforet Hector.*"

There is no hope for the body of the people of Ireland, as long as those, who are in power with you, shall make it the great object of their policy to propagate an opinion on this side of the water, that the mass of their countrymen are not to be trusted by their government: and that the only hold, which England has upon Ireland, consists in preserving a certain very small number of gentlemen in full possession of a monopoly of that kingdom. This system has disgusted many others beside catholics and dissenters.

As to those, who on your side are in the opposition to government, they are composed of persons, several of whom I love and revere. They have been irritated by a treatment too much for the ordinary patience of mankind to bear, into the adoption of schemes, which, however *argumentatively* specious, would go *practically* to the inevitable ruin of the kingdom. The opposition always connects the emancipation of the catholics with these schemes of reformation: indeed it makes the former only a member of the latter project. The gentlemen, who enforce that opposition, are in my opinion playing the game of their adversaries with all their might; and there is no third party in Ireland (nor in England neither) to separate things, that are in themselves so distinct, I mean the admitting people to the benefits of the constitution, and a change in the form of the constitution itself.

As every one knows, that a great part of the constitution of the Irish house of commons was formed, about the year 1614, expressly for bringing that house into a state of dependence; and that the new representative was at that time seated and installed by force and violence; nothing can be more impolitic than for those, who wish the house to stand on its present basis, (as, for one, I most sincerely do) to make it appear to have kept too much the principle of its first institution, and to continue to be as little a virtual, as it is an actual representative of the commons. It is the *degeneracy* of such an institution, *so vicious in its principle*, that is to be wished for. If men have the real benefit of a *sympathetic* representation, none but those, who are heated and intoxicated with theory, will look for any other. This sort of representation, my dear sir, must wholly depend, not on the force with which it is upheld, but upon the *prudence* of those who have influence upon it. Indeed, without some such prudence in the use of authority, I do

not know, at least in the present time, how any power can long continue.

If it be true that both parties are carrying things to extremities in different ways, the object which you and I have in common, that is to say, the union and concord of our country, *on the basis of the actual representation*, without risking those evils which any change in the form of our legislature must inevitably bring on, can never be obtained. On the part of the catholics (that is to say, of the body of the people of the kingdom) it is a terrible alternative, either to submit to the yoke of declared and insulting enemies, or to seek a remedy in plunging themselves into the horrors and crimes of that jacobinism, which unfortunately is not disagreeable to the principles and inclinations of, I am afraid, the majority of what we call the protestants of Ireland. The protestant part of that kingdom is represented by the government itself to be, by whole counties, in nothing less than open rebellion. I am sure that it is every where teeming with dangerous conspiracy.

I believe it will be found, that though the principles of the catholics, and the incessant endeavours of their clergy, have kept them from being generally infected with the systems of this time, yet, whenever their situation brings them nearer into contact with the jacobin protestants, they are more or less infected with their doctrines.

It is a matter for melancholy reflection; but I am fully convinced, that many persons in Ireland would be glad that the catholics should become more and more infected with the jacobin madness, in order to furnish new arguments for fortifying them in their monopoly. On any other ground, it is impossible to account for the late language of your men in power. If statesmen, (let me suppose for argument) upon the most solid political principles, conceive themselves obliged to resist the wishes of the far more numerous, and, as things stand, not the worse part of the community, one would think that they would naturally put their refusal as much as possible upon temporary grounds; and that they would act towards them in the most conciliatory manner, and would talk to them in the most gentle and soothing language; for refusal, in itself, is not a very gracious thing: and unfortunately, men are very quickly irritated out of their principles. Nothing is more discouraging to the loyalty of any description of men, than to represent to them that their humiliation and subjection make a principal part in the fundamental and invariable policy which regards the conjunction of these two kingdoms. This is not the way to give them a warm interest in that conjunction.

My poor opinion is, that the closest connexion between Great Britain and Ireland is essential to the well-being, I had almost said, to the very being, of the two kingdoms. For that purpose, I humbly conceive that the whole of the superior, and what I should call *imperial* politics, ought to have its residence here; and that Ireland, locally, civilly, and commercially independent, ought politically to look up to Great Britain in all matters of peace or of war; in all those points to be guided by her: and, in a word, with her to live and to die. At bottom, Ireland has no other choice; I mean, no other rational choice.

I think, indeed, that Great Britain would be ruined by the separation of Ireland; but, as there are degrees even in ruin, it would fall the most heavily on Ireland. By such a separation Ireland would be the most completely undone country in the world; the most wretched, the most distracted, and, in the end, the most desolate part of the habitable globe. Little do many people in Ireland consider how much of its prosperity has been owing to, and still depends upon, its intimate connexion with this kingdom. But, more sensible of this great truth than perhaps any other man, I have never conceived, or can conceive, that the connexion is strengthened by making the major part of the inhabitants of your country believe that their ease, and their satisfaction, and their equalization with the rest of their fellow-subjects of Ireland, are things adverse to the principles of that connexion; or that their subjection to a small monopolizing junto, composed of one of the smallest of their own internal factions, is the very condition upon which the harmony of the two kingdoms essentially depends. I was sorry to hear that this principle, or something not unlike it, was publicly and fully avowed by persons of great rank and authority in the house of lords in Ireland.

As to a participation on the part of the catholics in the privileges and capacities which are withheld, without meaning wholly to depreciate their importance, if I had the honour of being an Irish catholic, I should be content to expect satisfaction upon that subject with patience, until the minds of my adversaries, few but powerful, were come to a proper temper: because, if the catholics did enjoy without fraud, chicane, or partiality, some fair portion of those advantages which the law, even as now the law is, leaves open to them; and if the rod were not shaken over them at every turn, their present condition would be tolerable; as compared with their former condition, it would be happy. But the most favourable laws can do very little towards the happiness of a people, when the disposition of the ruling power is adverse to them. Men do not

live upon blotted paper. The favourable or the hostile mind of the ruling power is of far more importance to mankind, for good or evil, than the black letter of any statute. Late acts of parliament, whilst they fixed at least a temporary bar to the hopes and progress of the larger description of the nation, opened to them certain subordinate objects of equality; but it is impossible that the people should imagine that any fair measure of advantage is intended to them, when they hear the laws, by which they were admitted to this limited qualification, publicly reprobated as excessive and inconsiderate. They must think that there is a hankering after the old penal and persecuting code. Their alarm must be great, when that declaration is made by a person in very high and important office in the house of commons, and as the very first specimen and auspice of a new government.

All this is very unfortunate. I have the honour of an old acquaintance, and entertain, in common with you, a very high esteem for the few English persons who are concerned in the government of Ireland; but I am not ignorant of the relation these transitory ministers bear to the more settled Irish part of your administration. It is a delicate topic, upon which I wish to say but little; though my reflections upon it are many and serious. There is a great cry against English influence. I am quite sure that it is Irish influence that dreads the English habits.

Great disorders have long prevailed in Ireland. It is not long since that the catholics were the suffering party from those disorders. I am sure they were not protected as the case required. Their sufferings became a matter of discussion in parliament. It produced the most infuriated declamation against them that I have ever read. An inquiry was moved into the facts. The declamation was at least tolerated, if not approved. The inquiry was absolutely rejected. In that case, what is left for those who are abandoned by government, but to join with the persons who are capable of injuring them or protecting them, as they oppose or concur in their designs? This will produce a very fatal kind of union amongst the people; but it is an union which an unequal administration of justice tends necessarily to produce.

If any thing could astonish one at this time, it is the war, that the rulers in Ireland think it proper to carry on against the person whom they call the pope, and against all his adherents, whenever they think they have the power of manifesting their hostility. Without in the least derogating from the talents of your theological politicians, or from the military abilities of

your commanders (who act on the same principles) in Ireland; and without derogating from the zeal of either, it appears to me that the protestant directory of Paris, as statesmen, and the protestant hero, Bonaparte, as a general, have done more to destroy the said pope and all his adherents, in all their capacities, than the junto in Ireland have been ever able to effect. You must submit your *fasces* to theirs, and at best be contented to follow, with songs of gratulation or invectives, according to your humour, the triumphal car of those great conquerors. Had that true protestant, *Hoche*, with an army not infected with the slightest tincture of popery, made good his landing in Ireland, he would have saved you from a great deal of the trouble, which is taken to keep under a description of your fellow-citizens, obnoxious to you from their religion. It would not have a month's existence, supposing his success. This is the alliance, which, under the appearance of hostility, we act as if we wished to promote. All is well, provided we are safe from popery.

It was not necessary for you, my dear sir, to explain yourself to *me*, (in justification of your good wishes to your fellow-citizens) concerning your total alienation from the principles of the catholics. I am more concerned in what we agree, than in what we differ. You know the impossibility of our forming any judgment upon the opinions, religious, moral or political, of those, who in the largest sense are called protestants; at least as these opinions and tenets form a qualification for holding any civil, judicial, military, or even ecclesiastical situation. I have no doubt of the orthodox opinion of many both of the clergy and laity, professing the established religion in Ireland, and of many, even amongst the dissenters, relative to the great points of the christian faith: but that orthodoxy concerns them only as *individuals*. As a *qualification* for employment, we all know that in Ireland it is not necessary that they should profess any religion at all: so that the war that we make is upon certain theological tenets, about which scholastic disputes are carried on *æquo Marte* by controvertists, on their side, as able and as learned, and perhaps as well intentioned, as those are who fight the battle on the other part. To them I would leave those controversies. I would turn my mind to what is more within its competence, and has been more my study, (though for a man of the world I have thought of those things) I mean the moral, civil and political good of the countries we belong to, and in which God has appointed your station and mine. Let every man be as pious as he pleases; and in the way that he pleases; but it is agreeable neither to piety nor to

policy to give exclusively all manner of civil privileges and advantages to a *negative* religion—such is the protestant without a certain creed; and at the same time to deny those privileges to men, whom we know to agree to an iota in every one *positive* doctrine, which all of us who profess the religion authoritatively taught in England, hold ourselves, according to our faculties, bound to believe. The catholics of Ireland (as I have said) have the whole of our *positive* religion; our difference is only a negation of certain tenets of theirs. If we strip ourselves of *that* part of catholicism, we abjure christianity. If we drive them from that holding without engaging them in some other positive religion, (which you know by our qualifying laws we do not) what do we better, than to hold out to them terrors on the one side, and bounties on the other, in favour of that, which, for any thing we know to the contrary, may be pure atheism?

You are well aware, that when a man renounces the Roman religion, there is no civil inconvenience or incapacity whatsoever, which shall hinder him from joining any new or old sect of dissenters; or of forming a sect of his own invention, upon the most antichristian principles. Let Mr. Thomas Paine obtain a pardon, (as on change of ministry he may) there is nothing to hinder him from setting up a church of his own in the very midst of you. He is a natural-born British subject. His French citizenship does not disqualify him, at least upon a peace. This protestant apostle is as much above all suspicion of popery, as the greatest and most zealous of your sanhedrim in Ireland can possibly be. On purchasing a qualification, (which his friends of the directory are not so poor as to be unable to effect) he may sit in parliament; and there is no doubt that there is not one of your tests against popery, that he will not take as fairly, and as much *ex animo*, as the best of your zealot statesmen. I push this point no further; and only adduce this example (a pretty strong one, and fully in point) to show what I take to be the madness and folly of driving men, under the existing circumstances, from any *positive* religion whatever, into the irreligion of the times, and its sure concomitant principles of anarchy.

When religion is brought into a question of civil and political arrangement, it must be considered more politically than theologically, at least by us, who are nothing more than mere laymen. In that light the case of the catholics of Ireland is peculiarly hard, whether they be laity or clergy. If any of them take part, like the gentleman you mention, with some of the most accredited protestants of the country in projects, which cannot be more abhorrent to your nature and disposition

than they are to mine; in that case, however few, these catholic factions, who are united with factious protestants, may be; (and very few they are now, whatever shortly they may become) on their account the whole body is considered as of suspected fidelity to the crown, and as wholly undeserving of its favour. But if, on the contrary, in those districts of the kingdom where their numbers are the greatest, where they make in a manner the whole body of the people, (as, out of cities, in three-fourths of the kingdom they do) these catholics show every mark of loyalty and zeal in support of the government, which at best looks on them with an evil eye; then their very loyalty is turned against their claims. They are represented as a contented and happy people; and that it is unnecessary to do any thing more in their favour. Thus the factious disposition of a few among the catholics, and the loyalty of the whole mass, are equally assigned as reasons for not putting them on a *par* with those protestants, who are asserted by the government itself, which frowns upon papists, to be in a state of nothing short of actual rebellion, and in a strong disposition to make common cause with the worst foreign enemy, that these countries have ever had to deal with. What in the end can come of all this?

As to the Irish catholic clergy, their condition is likewise most critical: if they endeavour by their influence to keep a dissatisfied laity in quiet, they are in danger of losing the little credit they possess, by being considered as the instruments of a government adverse to the civil interests of their flock. If they let things take their course, they will be represented as colluding with sedition, or at least tacitly encouraging it. If they remonstrate against persecution, they propagate rebellion. Whilst government publicly avows hostility to that people, as a part of a regular system, there is no road they can take which does not lead to their ruin.

If nothing can be done on your side of the water, I promise you that nothing will be done here. Whether in reality or only in appearance, I cannot positively determine; but you will be left to yourselves by the ruling powers here. It is thus ostensibly and above board; and in part, I believe, the disposition is real. As to the people at large in this country, I am sure they have no disposition to intermeddle in your affairs. They mean you no ill whatever; and they are too ignorant of the state of your affairs to be able to do you any good. Whatever opinion they have on your subject is very faint and indistinct; and if there is any thing like a formed notion, even that amounts to no more than a sort of humming that remains on

their ears of the burthen of the old song about popery. Poor souls, they are to be pitied, who think of nothing but dangers long past by, and but little of the perils that actually surround them.

I have been long, but it is almost a necessary consequence of dictating, and that by snatches, as a relief from pain gives me the means of expressing my sentiments. They can have little weight as coming from me; and I have not power enough of mind or body to bring them out with their natural force. But I do not wish to have it concealed, that I am of the same opinion to my last breath, which I entertained when my faculties were at the best; and I have not held back from men in power in this kingdom, to whom I have very good wishes, any part of my sentiments on this melancholy subject, so long as I had means of access to persons of their consideration.

I have the honour to be, &c.

FRAGMENTS AND NOTES

OF

SPEECHES.

*** DURING the period of Mr. BURKE's parliamentary labours, some alterations in the acts of uniformity, and the repeal of the test and corporation acts, were agitated at various times in the house of commons. It appears, from the state of his MS. papers, that he had designed to publish some of the SPEECHES, which he delivered in those discussions, and with that view had preserved the following FRAGMENTS and detached NOTES; which are now given to the public, with as much order and connection as their imperfect condition renders them capable of receiving. The speeches on the Middlesex election, on shortening the duration of parliaments, on the reform of the representation in parliament, on the bill for explaining the power of juries in prosecutions for libels, and on the repeal of the marriage act, were found in the same imperfect state.

SPEECH

*On the petition which was presented to the house of commons, from certain clergyman of the church of England, and from certain of the two professions of civil law and physic, and others; praying to be relieved from subscription to the thirty-nine articles, as required by the acts of uniformity.**

MR. SPEAKER,

I SHOULD not trouble the house upon this question, if I could at all acquiesce in many of the arguments, or justify the vote I shall give upon several of the reasons which have been urged in favour of it. I should indeed be very much concerned, if I were thought to be influenced to that vote by those arguments.

In particular, I do most exceedingly condemn all such arguments as involve any kind of reflection on the personal character of the gentlemen, who have brought in a petition so decent in the style of it, and so constitutional in the mode. Beside the unimpeachable integrity and piety of many of the promoters of this petition, which render those aspersions as idle as they are unjust, such a way of treating the subject can have no other effect than to turn the attention of the house from the merits of the petition, the only thing properly before us, and which we are sufficiently competent to decide upon, to the motives of the petitioners, which belong exclusively to the great searcher of hearts.

We all know that those who loll at their ease in high dignities, whether of the church or of the state, are commonly averse to all reformation. It is hard to persuade them that there can be any thing amiss in establishments, which by feeling experience they find to be so very comfortable. It is as true that from the same selfish motives, those who are struggling upwards are apt to find every thing wrong and out of order. These are truths upon one side and on the other; and neither on the one side or the other, in argument, are they worth a single farthing. I wish therefore so much had not been

* The persons associated for this purpose were distinguished at the time by the name of 'The Feathers Tavern Association,' from the place were their meetings were usually held. Their petition was presented on the 6th of February 1772; and on a motion that it should be brought up, the same was negatived on a division, in which Mr. Burke voted in the majority, by 217 against 71.

said upon these ill-chosen, and worse than ill-chosen, these very invidious topics.

I wish still more that the dissentions and animosities, which had slept for a century, had not been just now most unseasonably revived. But if we must be driven, whether we will or not, to recollect these unhappy transactions, let our memory be complete and equitable, let us recollect the whole of them together. If the dissenters, as an honourable gentleman has described them, have formerly risen from a "whining, canting, snivelling generation," to be a body dreadful and ruinous to all our establishments, let him call to mind the follies, the violences, the outrages and persecutions, that conjured up, very blameably, but very naturally, that same spirit of retaliation. Let him recollect, along with the injuries, the services which dissenters have done to our church and to our state. If they have once destroyed, more than once they have saved them. This is but common justice, which they and all mankind have a right to.

There are, Mr. Speaker, beside these prejudices and animosities, which I would have wholly removed from the debate, things more regularly and argumentatively urged against the petition, which, however, do not at all appear to me conclusive.

First, two honourable gentlemen, one near me, the other I think on the other side of the house, assert, that if you alter her symbols, you destroy the being of the church of England. This, for the sake of the liberty of that church, I must absolutely deny. The church, like every body corporate, may alter her laws without changing her identity. As an independent church, professing fallibility, she has claimed a right of acting without the consent of any other; as a church, she claims and has always exercised a right of reforming whatever appeared amiss in her doctrine, her discipline, or her rites. She did so, when she shook off the papal supremacy in the reign of Henry VIII. which was an act of the body of the English church, as well as of the state, (I don't inquire how obtained.) She did so, when she twice changed the liturgy in the reign of King Edward, when she then established articles which were themselves a variation from former professions. She did so, when she cut off three articles from her original forty-two, and reduced them to the present thirty-nine; and she certainly would not lose her corporate identity, nor subvert her fundamental principles, though she were to leave ten of the thirty-nine which remain out of any future confession of her faith. She would limit her corporate powers on the con-

trary, and she would oppose her fundamental principles, if she were to deny herself the prudential exercise of such capacity of reformation. This, therefore, can be no objection to your receiving the petition.

In the next place, sir, I am clear that the act of union, reciting and ratifying one Scotch and one English act of parliament, has not rendered any change whatsoever in our church impossible, but by a dissolution of the union between the two kingdoms.

The honourable gentleman who has last touched upon that point, has not gone quite so far as the gentlemen who first insisted upon it. However, as none of them wholly abandon that post, it will not be safe to leave it behind me unattacked. I believe no one will wish their interpretation of that act to be considered as authentic. What shall we think of the wisdom (to say nothing of the competence) of that legislature, which should ordain to itself such a fundamental law at its outset, as to disable itself from executing its own functions; which should prevent it from making any further laws, however wanted, and that too on the most interesting subject that belongs to human society, and where she most frequently wants its interposition; which should fix those fundamental laws that are for ever to prevent it from adapting itself to its opinions, however clear, or to its own necessities, however urgent? Such an act, Mr. Speaker, would for ever put the church out of its own power; it certainly would put it far above the state, and erect it into that species of independency which it has been the great principle of our policy to prevent.

The act never meant, I am sure, any such unnatural restraint on the joint legislature it was then forming. History shows us what it meant, and all that it could mean with any degree of common sense.

In the reign of Charles the First, a violent and ill-considered attempt was made unjustly to establish the platform of the government, and the rites of the church of England in Scotland, contrary to the genius and desires of far the majority of that nation. This usurpation excited a most mutinous spirit in that country. It produced that shocking fanatical covenant (I mean the covenant of thirty-six) for forcing their ideas of religion on England, and indeed on all mankind. This became the occasion at length of other covenants, and of a Scotch army marching into England to fulfil them; and the parliament of England (for its own purposes) adopted their scheme, took their last covenant, and destroyed the church of England. The parliament, in their ordinance of 1643, expressly assigd

their desire of conforming to the church of Scotland as a motive for their alteration.

To prevent such violent enterprizes on the one side or on the other, since each church was going to be disarmed of a legislature wholly and peculiarly affected to it, and lest this new uniformity in the state should be urged as a reason and ground of ecclesiastical uniformity, the act of union provided, that presbytery should continue the Scotch, as episcopacy the English establishment, and that this separate and mutually independent church government was to be considered as a part of the union, without aiming at putting the regulation within each church out of its own power, without putting both churches out of the power of the state. It could not mean to forbid us to set any thing ecclesiastical in order, but at the expense of tearing up all foundations, and forfeiting the inestimable benefits (for inestimable they are) which we derive from the happy union of the two kingdoms. To suppose otherwise, is to suppose that the act intended we could not meddle at all with the church, but we must as a preliminary destroy the state.

Well then, sir, this is, I hope, satisfactory. The act of union does not stand in our way: but, sir, gentlemen think we are not competent to the reformation desired, chiefly from our want of theological learning. If we were the legal assembly * * * * * *

If ever there was any thing to which, from reason, nature, habit, and principle, I am totally averse, it is persecution for conscientious difference in opinion. If these gentlemen complained justly of any compulsion upon them on that article, I would hardly wait for their petitions; as soon as I knew the evil, I would haste to the cure; I would even run before their complaints.

I will not enter into the abstract merits of our articles and liturgy—perhaps there are some things in them which one would wish had not been there. They are not without the marks and characters of human frailty.

But it is not human frailty and imperfection, and even a considerable degree of them, that becomes a ground for your alteration; for by no alteration will you get rid of those errors, however you may delight yourself in varying to infinity the fashion of them. But the ground for a legislative alteration of a legal establishment is this, and this only; that you find the inclinations of the majority of the people, concurring with your own sense of the intolerable nature of the abuse, are in favour of a change.

If this be the case in the present instance, certainly you ought to make the alteration that is proposed, to satisfy your own consciences, and to give content to your people. But if you have no evidence of this nature, it ill becomes your gravity, on the petition of a few gentlemen, to listen to any thing that tends to shake one of the capital pillars of the state, and alarm the body of your people upon that one ground, in which every hope and fear, every interest, passion, prejudice, every thing which can affect the human breast, are all involved together. If you make this a season for religious alterations, depend upon it you will soon find it a season of religious tumults and religious wars.

These gentlemen complain of hardship. No considerable number shows discontent; but in order to give satisfaction to any number of respectable men, who come in so decent and constitutional a mode before us, let us examine a little what that hardship is. They want to be preferred clergymen in the church of England as by law established; but their consciences will not suffer them to conform to the doctrines and practices of that church; that is, they want to be teachers in a church to which they do not belong; and it is an odd sort of hardship. They want to receive the emoluments appropriated for teaching one set of doctrines, whilst they are teaching another. A church, in any legal sense, is only a certain system of religious doctrines and practices, fixed and ascertained by some law; by the difference of which laws different churches (as different commonwealths) are made in various parts of the world: and the establishment is a tax laid by the same sovereign authority for payment of those who so teach and so practise. For no legislature was ever so absurd as to tax its people to support men for teaching and acting as they please; but by some prescribed rule.

The hardship amounts to this, that the people of England are not taxed two shillings in the pound to pay them for teaching, as divine truths, their own particular fancies. For the state has so taxed the people; and by way of relieving these gentlemen, it would be a cruel hardship on the people to be compelled to pay, from the sweat of their brow, the most heavy of all taxes to men to condemn as heretical the doctrines which they repute to be orthodox, and to reprobate as superstitious the practices which they use as pious and holy. If a man leaves by will an establishment for preaching such as Boyle's lectures, or for charity sermons, or funeral sermons, shall any one complain of an hardship because he has an excellent sermon upon matrimony, or on the martyrdom of King Charles, or

on the restoration, which I, the trustee of the establishment, will not pay him for preaching? S. Jenings, Origin of Evil. Such is the hardship which they complain of under the present church establishment, that they have not the power of taxing the people of England for the maintenance of their private opinions.

The laws of toleration provide for every real grievance that these gentlemen can rationally complain of. Are they hindered from professing their belief of what they think to be truth? If they do not like the establishment, there are an hundred different modes of dissent in which they may teach. But even if they are so unfortunately circumstanced, that of all that variety none will please them, they have free liberty to assemble a congregation of their own; and if any persons think their fancies (they may be brilliant imaginations) worth paying for, they are at liberty to maintain them as their clergy, nothing hinders it. But if they cannot get an hundred people together who will pay for their reading a liturgy after their form, with what face can they insist upon the nation's conforming to their ideas for no other visible purpose than the enabling them to receive with a good conscience the tenth part of the produce of your lands.

Therefore, beforehand, the constitution has thought proper to take a security, that the tax raised on the people shall be applied only to those who profess such doctrines, and follow such a mode of worship, as the legislature representing the people has thought most agreeable to their general sense; binding as usual the minority not to an assent to the doctrines, but to a payment of the tax.

But how do you ease and relieve? How do you know that in making a new door into the church for these gentlemen, you do not drive ten times their number out of it? Supposing the number of contents and not contents strictly equal in numbers and consequence, the possession, to avoid disturbance, ought to carry it. You displease all the clergy of England now actually in office, for the chance of obliging a score or two perhaps of gentlemen, who are or want to be beneficed clergymen; and do you oblige? Alter your liturgy, will it please all even of those who wish an alteration? Will they agree in what ought to be altered? And after it is altered to the mind of every one, you are no further advanced than if you had not taken a single step; because a large body of men will then say, you ought to have no liturgy at all. And then these men, who now complain so bitterly that they are shut out, will themselves

bar the door against thousands of others. Dissent, not satisfied with toleration, is not conscience, but ambition.

You altered the liturgy for the Directory; this was settled by a set of most learned divines and learned laymen; Selden sat amongst them. Did this please? It was considered upon both sides as a most unchristian imposition. Well, at the restoration they rejected the Directory, and reformed the common prayer, which by the way had been three times reformed before. Were they then contented? Two thousand (or some great number) of clergy resigned their livings in one day rather than read it; and truly, rather than raise that second idol, I should have adhered to the Directory as I now adhere to the common prayer. Nor can you content other men's conscience, real or pretended, by any concessions; follow your own; seek peace and ensue it. You have no symptoms of discontent in the people to their establishment. The churches are too small for their congregations. The livings are too few for their candidates. The spirit of religious controversy has slackened by the nature of things; by act you may revive it. I will not enter into the question how much truth is preferable to peace. Perhaps truth may be far better. But as we have scarcely ever the same certainty in the one that we have in the other, I would, unless the truth were evident indeed, hold fast to peace, which has in her company charity, the highest of the virtues.

This business appears in two points of view: 1st. Whether it it is a matter of grievance; 2d. Whether it is within our province to redress it with propriety and prudence. Whether it comes properly before us as on a petition upon matter of grievance, I would not inquire too curiously. I know, technically speaking, that nothing agreeable to law can be considered as a grievance. But an over-attention to the rules of any act does sometimes defeat the ends of it, and I think it does so in this parliamentary act as much at least as in any other. I know many gentlemen think that the very essence of liberty consists in being governed according to law; as if grievances had nothing real and intrinsic; but I cannot be of that opinion.—Grievances may subsist by law. Nay, I do not know whether any grievance can be considered as intolerable, until it is established and sanctified by law. If the act of toleration were not perfect, if there were a complaint of it, I would gladly consent to amend it. But when I heard a complaint of a pressure on religious liberty, to my astonishment I find that there was no complaint whatsoever of the insufficiency of the act of king William, nor any attempt to make it more sufficient. The mat-

ter therefore does not concern toleration, but establishment; and it is not the rights of private conscience that are in question, but the propriety of the terms which are proposed by law as a title to public emoluments; so that the complaint is not, that there is not toleration of diversity in opinion, but that diversity in opinion is not rewarded by bishopricks, rectories, and collegiate stalls. When gentlemen complain of the subscription as matter of grievance, the complaint arises from confounding private judgment, whose rights are anterior to law, and the qualifications which the law creates for its own magistracies, whether civil or religious. To take away from men their lives, their liberty, or their property, those things for the protection of which society was introduced, is great hardship and intolerable tyranny; but to annex any condition you please to benefits artificially created, is the most just, natural, and proper thing in the world. When *e novo* you form an arbitrary benefit, an advantage, pre-eminence, or emolument, not by nature, but institution, you order and modify it with all the power of a creator over his creature. Such benefits of institution are royalty, nobility, priesthood; all of which you may limit to birth; you might prescribe even shape and stature.—The Jewish priesthood was hereditary. Founder's kinsmen have a preference in the election of fellows in many colleges of our universities; the qualifications at All Souls are, that they should be—*optime nati, bene vestiti, mediocriter docti.*

By contending for liberty in the candidate for orders, you take away the liberty of the elector, which is the people, that is the state. If they can choose, they may assign a reason for their choice, if they can assign a reason; they may do it in writing, and prescribe it as a condition; they may transfer their authority to their representatives, and enable them to exercise the same. In all human institutions a great part, almost all regulations, are made from the mere necessity of the case, let the theoretical merits of the question be what it will. For nothing happened at the reformation, but what will happen in all such revolutions. When tyranny is extreme, and abuses of government intolerable, men resort to the rights of nature to shake it off. When they have done so, the very same principle of necessity of human affairs to establish some other authority which shall preserve the order of this new institution, must be obeyed, until they grow intolerable; and you shall not be suffered to plead original liberty against such an institution. See Holland, Switzerland.

If you will have religion publicly practised and publicly taught, you must have a power to say what that religion will be,

which you will protect and encourage; and to distinguish it by such marks and characteristics as you in your wisdom shall think fit. As I said before, your determination may be unwise in this as in other matters, but it cannot be unjust, hard, or oppressive, or contrary to the liberty of any man, or in the least degree exceeding your province.

It is, therefore, as a grievance, fairly none at all; nothing but what is essential, not only to the order, but to the liberty of the whole community.

The petitioners are so sensible of the force of these arguments, that they do admit of one subscription, that is, to the scripture. I shall not consider how forcibly this argument militates with their whole principle against subscription as an usurpation on the rights of providence: I content myself with submitting to the consideration of the house, that if that rule were once established, it must have some authority to enforce the obedience; because you well know a law without a sanction will be ridiculous. Somebody must sit in judgment on his conformity; he must judge on the charge; if he judges, he must ordain execution. These things are necessary consequences one of the other; and then this judgment is an equal and a superior violation of private judgment; the right of private judgment is violated in a much greater degree than it can be by any previous subscription. You come round again to subscription as the best and easiest method: men must judge of his doctrine, and judge definitively; so that either his test is nugatory, or men must first or last prescribe his public interpretation of it.

If the church be, as Mr. Locke defines it, *a voluntary society, &c.* then it is essential to this voluntary society to exclude from her voluntary society any member she thinks fit, or to oppose the entrance of any upon such conditions as she thinks proper. For otherwise it would be a voluntary society acting contrary to her will, which is a contradiction in terms. And this is Mr. Locke's opinion, the advocate for the largest scheme of ecclesiastical and civil toleration to protestants, (for to papists he allows no toleration at all.)

They dispute only the extent of the subscription; they therefore tacitly admit the equity of the principle itself. Here they do not resort to the original rights of nature, because it is manifest that those rights give as large a power of controverting every part of scripture, or even the authority of the whole, as they do to the controverting any articles whatsoever.—When a man requires you to sign an assent to scripture, he requires you to assent to a doctrine as contrary to your

natural understanding and to your rights of free inquiry, as those who require your conformity to any one article whatsoever.

The subscription to scripture is the most astonishing idea I ever heard, and will amount to just nothing at all. Gentlemen so acute have not, that I have heard, ever thought of answering a plain obvious question—What is that scripture, to which they are content to subscribe? They do not think that a book becomes of divine authority, because it is bound in blue morocco, and is printed by John Basket and his assigns. The bible is a vast collection of different treatises: a man, who holds the divine authority of one, may consider the other as merely human. What is his canon? The Jewish—St. Jerom's—that of the thirty-nine articles—Luther's—? There are some who reject the canticles, others six of the epistles—the apocalypse has been suspected even as heretical, and was doubted of for many ages and by many great men. As these narrow the canon, others have enlarged it by admitting St. Barnabas's epistles, the apostolic constitutions, to say nothing of many other gospels. Therefore to ascertain scripture you must have one article more; and you must define what that scripture is which you mean to teach. There are, I believe, very few who, when scripture is so ascertained, do not see the absolute necessity of knowing what general doctrine a man draws from it, before he is sent down authorized by the state to teach it as pure doctrine, and receive a tenth of the produce of our lands.

The scripture is no one summary of doctrines regularly digested, in which a man could not mistake his way; it is a most venerable, but most multifarious collection of the records of the divine œconomy; a collection of an infinite variety, of cosmogony, theology, history, prophecy, psalmody, morality, apologue, allegory, legislation, ethicks, carried through different books, by different authors, at different ages, for different ends and purposes.

It is necessary to sort out what is intended for example, what only as narrative, what to be understood literally, what figuratively, where one precept is to be controlled and modified by another—what is used directly, and what only as an argument *ad hominem*—what is temporary, and what of perpetual obligation—what appropriated to one state and to one set of men, and what the general duty of all christians. If we do not get some security for this, we not only permit, but we actually pay for all the dangerous fanaticism which can be pro-

duced to corrupt our people, and to derange the public worship of the country. We owe the best we can (not infallibility, but prudence) to the subject, first sound doctrine, then ability to use it.

SPEECH*

On the second reading of a bill for the relief of Protestant Dissenters.† (1773.)

I ASSURE you, sir, that the honourable gentleman, who spoke last but one, need not be in the least fear that I should make a war of particles upon his opinion, whether the church of England *should*, *would*, or *ought* to be alarmed. I am very clear that this house has no one reason in the world to think she is alarmed by the bill brought before you. It is something extraordinary that the only symptom of alarm in the church of England should appear in the petition of some dissenters; with whom, I believe, very few in this house are yet acquainted; and of whom you know no more than that you are assured by the honourable gentleman, that they are not Mahometans. Of the church we know they are not, by the name that they assume. They are then dissenters. The first symptom of an alarm comes from some dissenters assembled round the lines of Chatham: these lines become the security of the church of England! The honourable gentleman, in speaking of the lines of Chatham, tells us, that they serve not only for the security of the wooden walls of England, but for the defence of the church of England. I suspect, the wooden walls of England secure the lines of Chatham, rather than the lines of Chatham secure the wooden walls of England.

Sir, the church of England, if only defended by this miserable petition upon your table, must, I am afraid, upon the principles of true fortifications, be soon destroyed. But fortunately her walls, bulwarks and bastions, are constructed of other materials than of stubble and straw; are built up with the strong and stable matter of the gospel of liberty, and founded on a true, constitutional, legal establishment. But, sir, she has other securities; she has the security of her own doctrines; she has the security of the piety, the sanctity of her own pro-

* This speech is given partly from the manuscript papers of Mr. Burke, and partly from a very imperfect short-hand note taken at the time by a member of the house of commons.

† This bill was opposed by petitions from several congregations, calling themselves "protestant dissenters;" who appear to have been principally composed of the people who are generally known under the denomination of "Methodists;" and particularly by a petition from a congregation, of that description, residing in the town of Chatham.

fessors; their learning is a bulwark to defend her; she has the security of the two universities, not shook in any single battlement, in any single pinnacle.

But the honourable gentleman has mentioned indeed principles which astonish me rather more than ever. The honourable gentleman thinks that the dissenters enjoy a large share of liberty under a connivance; and he thinks that the establishing toleration by law is an attack upon christianity.

The first of these is a contradiction in terms. Liberty under a connivance! Connivance is a relaxation from slavery, not a definition of liberty. What is connivance, but a state under which all slaves live? If I was to describe slavery, I would say with those who *hate* it, it is living under will, not under law: if, as it is stated by its advocates, I would say, that, like earthquakes, like thunder, or other wars the elements make upon mankind, it happens rarely, it occasionally comes now and then upon the people, who upon ordinary occasions enjoy the same legal government of liberty. Take it under the description of those who would soften those features, the state of slavery and connivance is the same thing. If the liberty enjoyed be a liberty not of toleration, but of connivance, the only question is, whether establishing such by law is an attack upon christianity. Toleration an attack upon christianity! What then, are we come to this pass, to suppose that nothing can support christianity, but the principles of persecution? Is that then the idea of establishment? Is it then the idea of christianity itself, that it ought to have establishments, that it ought to have laws against dissenters, but the breach of which laws is to be connived at? What a picture of toleration; what a picture of laws, of establishments; what a picture of religious and civil liberty! I am persuaded the honourable gentleman does not see it in this light. But these very terms become the strongest reasons for my support of the bill; for I am persuaded that toleration, so far from being an attack upon christianity, becomes the best and surest support that possibly can be given to it. The christian religion itself arose without establishment, it arose even without toleration; and whilst its own principles were not tolerated, it conquered all the powers of darkness, it conquered all the powers of the world. The moment it began to depart from these principles, it converted the establishment into tyranny; it subverted its foundations from that very hour. Zealous as I am for the principle of an establishment, so just an abhorrence do I conceive against whatever may shake it. I know nothing but the supposed necessity of persecution that can make an establishment disgusting. I would have toleration

a part of establishment, as a principle favourable to christianity, and as a part of christianity.

All seem agreed that the law, as it stands, inflicting penalties on all religious teachers and on schoolmasters, who do not sign the thirty-nine articles of religion, ought not to be executed. We are all agreed that *the law is not good;* for that, I presume, is undoubtedly the idea of a law that ought not to be executed. The question therefore is, whether in a well constituted commonwealth, which we desire ours to be thought, and I trust, intend that it should be, whether in such a commonwealth it is wise to retain those laws which it is not proper to execute. A penal law, not ordinarily put in execution, seems to me to be a very absurd and a very dangerous thing. For if its principle be right, if the object of its prohibitions and penalties be a real evil, then you do in effect permit that very evil which not only the reason of the thing, but your very law, declares ought not to be permitted; and thus it reflects exceedingly on the wisdom, and consequently derogates not a little from the authority of a legislature; who can at once forbid and suffer, and in the same breath promulgate penalty and indemnity to the same persons, and for the very same actions. But if the object of the law be no moral or political evil, then you ought not to hold even a terror to those, whom you ought certainly not to punish—for if it is not right to hurt, it is neither right nor wise to menace. Such laws, therefore, as they must be defective either in justice or wisdom, or both; so they cannot exist without a considerable degree of danger. Take them which way you will, they are prest with ugly alternatives.

1st. All penal laws are either upon popular prosecution, or on the part of the crown. Now, if they may be roused from their sleep, whenever a minister thinks proper, as instruments of oppression, then they put vast bodies of men into a state of slavery and court dependence; since their liberty of conscience and their power of executing their functions depend entirely on his will. I would have no man derive his means of continuing any function, or his being restrained from it, but from the laws only; they should be his only superior and sovereign lords.

2d. They put statesmen and magistrates into an habit of playing fast and loose with the laws, straining or relaxing them as may best suit their political purposes; and, in that light, tend to corrupt the executive power through all its offices.

3d. If they are taken up on popular actions, their operation in that light also is exceedingly evil. They become the instru-

ments of private malice, private avarice, and not of public regulation; they nourish the worst of men to the prejudice of the best, punishing tender consciences, and rewarding informers.

Shall we, as the honourable gentleman tells us we may with perfect security, trust to the manners of the age? I am well pleased with the general manners of the times; but the desultory execution of penal laws, the thing I condemn, does not depend on the manners of the times. I would however have the laws tuned in unison with the manners—very dissonant are a gentle country and cruel laws; very dissonant that your reason is furious, but your passions moderate, and that you are always equitable except in your courts of justice.

I will beg leave to state to the house one argument, which has been much relied upon—that the dissenters are not unanimous upon this business; that many persons are alarmed; that it will create a disunion among the dissenters.

When any dissenters, or any body of people, come here with a petition, it is not the number of people, but the reasonableness of the request, that should weigh with the house. A body of dissenters come to this house, and say, Tolerate us—we desire neither the parochial advantage of tythes, nor dignities, nor the stalls of your cathedrals; No! let the venerable orders of the hierarchy exist with all their advantages. And shall I tell them, I reject your just and reasonable petition, not because it shakes the church, but because there are others, while you lie grovelling upon the earth, that will kick and bite you? Judge which of these descriptions of men comes with a fair request—that which says, Sir, I desire liberty for my own, because I trespass on no man's conscience;—or the other, which says, I desire that these men should not be suffered to act according to their consciences, though I am tolerated to act according to mine. But I sign a body of articles, which is my title to toleration; I sign no more, because more are against my conscience. But I desire that you will not tolerate these men, because they will not go so far as I, though I desire to be tolerated, who will not go as far as you. No, imprison them, if they come within five miles of a corporate town, because they do not believe what I do in point of doctrines.

Shall I not say to these men, *arrangez vous canaille*. You, who are not the predominant power, will not give to others the relaxation under which you are yourself suffered to live. I have as high an opinion of the doctrines of the church as you. I receive them implicitly, or I put my own explanation on them, or take that which seems to me to come best recommended by

authority. There are those of the dissenters who think more rigidly of the doctrine of the articles relative to predestination, than others do. They sign the article relative to it *ex animo* and literally. Others allow a latitude of construction. These two parties are in the church, as well as among the dissenters; yet, in the church, we live quietly under the same roof. I do not see why, as long as providence gives us no further light into this great mystery, we should not leave things as the divine wisdom has left them. But suppose all these things to me to be clear (which providence however seems to have left obscure) yet whilst dissenters claim a toleration in things, which seeming clear to me, are obscure to them, without entering into the merit of the articles, with what face can these men say, Tolerate us, but do not tolerate them? Toleration is good for all, or it is good for none.

The discussion this day is not between establishment on one hand, and toleration on the other; but between those who, being tolerated themselves, refuse toleration to others. That power should be puffed up with pride, that authority should degenerate into rigor, if not laudable, is but too natural. But this proceeding of theirs is much beyond the usual allowance to human weakness; it not only is shocking to our reason, but it provokes our indignation. *Quid domini facient, audent cum talia fures?* It is not the proud prelate thundering in his commission court, but a pack of manumitted slaves, with the lash of the beadle flagrant on their backs, and their legs still galled with their fetters, that would drive their brethren into that prison-house from whence they have just been permitted to escape. If, instead of puzzling themselves in the depths of the divine counsels, they would turn to the mild morality of the gospel, they would read their own condemnation—O, thou wicked servant, I forgave thee all that debt because thou desiredst me: shouldest not thou also have compassion on thy fellow-servant, even as I had pity on thee.

In my opinion, sir, a magistrate, whenever he goes to put any restraint upon religious freedom, can only do it upon this ground, that the person dissenting does not dissent from the scruples of ill-informed conscience, but from a party ground of dissention, in order to raise a faction in the state. We give with regard to rites and ceremonies an indulgence to tender consciences. But if dissent is at all punished in any country, if at all it can be punished upon any pretence, it is upon a presumption, not that a man is supposed to differ conscientiously from the establishment, but that he resists truth for the sake of faction; that he abets diversity of opinions in religion to

distract the state, and to destroy the peace of his country. This is the only plausible, for there is no true ground of persecution. As the laws stand, therefore, let us see how we have thought fit to act.

If there is any one thing within the competency of a magistrate with regard to religion, it is this, that he has a right to direct the exterior ceremonies of religion; that whilst interior religion is within the jurisdiction of God alone, the external part, bodily action, is within the province of the chief governor. Hooker, and all the great lights of the church, have constantly argued this to be a part within the province of the civil magistrate; but look at the act of toleration of William and Mary, there you will see the civil magistrate has not only dispensed with those things which are more particularly within his province, with those things which faction might be supposed to take up for the sake of making visible and external divisions, and raising a standard of revolt; but has also, from sound politic considerations, relaxed on those points which are confessedly without his province.

The honourable gentleman speaking of the heathens certainly could not mean to recommend any thing that is derived from that impure source. But he has praised the tolerating spirit of the heathens. Well! but the honourable gentleman will recollect that heathens, that polytheists, must permit a number of divinities. It is the very essence of its constitution. But was it ever heard that polytheism tolerated a dissent from a polytheistic establishment? the belief of one God only? Never, never! Sir, they constantly carried on persecution against that doctrine. I will not give heathens the glory of a doctrine which I consider the best part of christianity. The honourable gentleman must recollect the Roman law that was clearly against the introduction of any foreign rites in matters of religion. You have it at large in Livy, how they persecuted in the first introduction the rites of Bacchus: and even before Christ, to say nothing of their subsequent persecutions, they persecuted the druids and others. Heathenism, therefore, as in other respects erroneous, was erroneous in point of persecution. I do not say, every heathen, who persecuted, was therefore an impious man. I only say he was mistaken, as such a man is now. But, says the honourable gentleman, they did not persecute epicureans. No; the epicureans had no quarrel with their religious establishment, nor desired any religion for themselves. It would have been very extraordinary, if irreligious heathens had desired either a religious establishment or toleration. But, says the honourable gentleman,

the epicureans entered, as others, into the temples. They did so; they defied all subscription; they defied all sorts of conformity; there was no subscription to which they were not ready to set their hands, no ceremonies they refused to practise; they made it a principle of their irreligion, outwardly to conform to any religion. These atheists eluded all that you could do; so will all freethinkers for ever. Then you suffer, or the weakness of your law has suffered, those great dangerous animals to escape notice, whilst you have nets that entangle the poor fluttering silken wings of a tender conscience.

The honourable gentleman insists much upon this circumstance of objection, namely, the division amongst the dissenters. Why, sir, the dissenters by the nature of the term are open to have a division among themselves. They are dissenters, because they differ from the church of England; not that they agree among themselves. There are presbyterians, there are independents, some that do not agree to infant-baptism, others that do not agree to the baptism of adults, or any baptism. All these are however tolerated under the acts of King William, and subsequent acts; and their diversity of sentiments with one another did not and could not furnish an argument against their toleration, when their difference with ourselves furnished none.

But, says the honourable gentleman, if you suffer them to go on, they will shake the fundamental principles of christianity. Let it be considered that this argument goes as strongly against connivance which you allow, as against toleration which you reject. The gentleman sets out with a principle of perfect liberty, or, as he describes it, connivance. But for fear of dangerous opinions, you leave it in your power to vex a man who has not held any one dangerous opinion whatsoever. If one man is a professed atheist, another man the best christian, but dissents from two of the thirty-nine articles, I may let escape the atheist, because I know him to be an atheist, because I am perhaps so inclined myself, and because I may connive where I think proper; but the conscientious dissenter, on account of his attachment to that general religion which perhaps I hate, I shall take care to punish, because I may punish when I think proper. Therefore, connivance being an engine of private malice or private favour, not of good government; an engine, which totally fails of suppressing atheism, but oppresses conscience; I say, that principle becomes not serviceable, but dangerous to christianity; that it is not toleration, but contrary to it, even contrary to peace; that the penal sys-

tem to which it belongs is a dangerous principle in the economy either of religion or government.

The honourable gentleman, and in him I comprehend all those who oppose the bill, bestowed in support of their side of the question as much argument as it could bear, and much more of learning and decoration than it deserved. He thinks connivance consistent, but legal toleration inconsistent with the interests of christianity. Perhaps I would go as far as that honourable gentleman, if I thought toleration inconsistent with those interests. God forbid! I may be mistaken, but I take toleration to be a part of religion. I do not know which I would sacrifice; I would keep them both; it is not necessary I should sacrifice either. I do not like the idea of tolerating the doctrines of Epicurus: but nothing in the world propagates them so much as the oppression of the poor, of the honest, and candid disciples of the religion we profess in common, I mean, revealed religion; nothing sooner makes them take a short cut out of the bondage of sectarian vexation, into open and direct infidelity, than tormenting men for every difference. My opinion is, that in establishing the christian religion wherever you find it, curiosity or research is its best security; and in this way a man is a great deal better justified in saying, tolerate all kinds of consciences, than in imitating the heathens, whom the honourable gentleman quotes, in tolerating those who have none. I am not overfond of calling for the secular arm upon these misguided or misguiding men: but if ever it ought to be raised, it ought surely to be raised against these very men, not against others whose liberty of religion you make a pretext for proceedings which drive them into the bondage of impiety. What figure do I make in saying, I do not attack the works of these atheistical writers, but I will keep a rod hanging over the conscientious man, their bitterest enemy, because these atheists may take advantage of the liberty of their foes, to introduce irreligion. The best book that ever perhaps has been written against these people, is that in which the author has collected in a body the whole of the infidel code, and has brought the writers into one body to cut them all off together. This was done by a dissenter, who never did subscribe the thirty-nine articles—Dr. Leland. But if, after all, this danger is to be apprehended, if you are really fearful that christianity will indirectly suffer by this liberty, you have my free consent; go directly and by the strait way, and not by a circuit in which in your road you may destroy your friends, point your arms against these men, who do the mischief you fear promoting: point your arms against men, who,

not contented with endeavouring to turn your eyes from the blaze and effulgence of light, by which life and immortality is so gloriously demonstrated by the gospel, would even extinguish that faint glimmering of nature, that only comfort supplied to ignorant man before this great illumination—them, who by attacking even the possibility of all revelation, arraign all the dispensations of providence to man. These are the wicked dissenters you ought to fear; these are the people against whom you ought to aim the shaft of the law; these are the men to whom, arrayed in all the terrors of government, I would say, you shall not degrade us into brutes; these men, these factious men, as the honourable gentleman properly called them, are the just objects of vengeance, not the conscientious dissenter; these men, who would take away whatever ennobles the rank or consoles the misfortunes of human nature, by breaking off that connection of observances, of affections, of hopes and fears, which bind us to the divinity, and constitute the glorious and distinguishing prerogative of humanity, that of being a religious creature; against these I would have the laws rise in all their majesty of terrors, to fulminate such vain and impious wretches, and to awe them into impotence by the only dread they can fear or believe, to learn that eternal lesson—*Discite justitiam moniti, et non temnere Divos.*

At the same time that I would cut up the very root of atheism, I would respect all conscience, all conscience that is really such, and which, perhaps, its very tenderness proves to be sincere. I wish to see the established church of England great and powerful; I wish to see her foundations laid low and deep, that she may crush the giant powers of rebellious darkness; I would have her head raised up to that Heaven to which she conducts us. I would have her open wide her hospitable gates by a noble and liberal comprehension; but I would have no breaches in her wall; I would have her cherish all those who are within, and pity all those who are without; I would have her a common blessing to the world, an example, if not an instructor to those who have not the happiness to belong to her; I would have her give a lesson of peace to mankind, that a vexed and wandering generation might be taught to seek for repose and toleration in the maternal bosom of christian charity, and not in the harlot lap of infidelity and indifference. Nothing has driven people more into that house of seduction than the mutual hatred of christian congregations. Long may we enjoy our church under a learned and edifying episcopacy. But episcopacy may fail, and religion exist. The most horrid and cruel blow that can be offered to civil society is through

atheism. Do not promote diversity; when you have it, bear it; have as many sorts of religion as you find in your country; there is a reasonable worship in them all. The others, the infidels, are outlaws of the constitution; not of this country, but of the human race. They are never, never to be supported, never to be tolerated. Under the systematic attacks of these people, I see some of the props of good government already begin to fail; I see propagated principles, which will not leave to religion even a toleration. I see myself sinking every day under the attacks of these wretched people—How shall I arm myself against them? by uniting all those in affection who are united in the belief of the great principles of the Godhead that made and sustains the world. They who hold revelation give double assurance to their country. Even the man who does not hold revelation, yet who wishes that it were proved to him, who observes a pious silence with regard to it, such a man, though not a christian, is governed by religious principles. Let him be tolerated in this country. Let it be but a serious religion, natural or revealed, take what you can get; cherish, blow up the slightest spark. One day it may be a pure and holy flame. By this proceeding you form an alliance, offensive and defensive, against those great ministers of darkness in the world, who are endeavouring to shake all the works of God established in order and beauty. Perhaps I am carried too far; but it is in the road into which the honourable gentleman has led me. The honourable gentleman would have us fight this confederacy of the powers of darkness with the single arm of the church of England; would have us not only fight against infidelity, but fight at the same time with all the faith in the world except our own. In the moment we make a front against the common enemy, we have to combat with all those who are the natural friends of our cause. Strong as we are, we are not equal to this. The cause of the church of England is included in that of religion, not that of religion in the church of England. I will stand up at all times for the rights of conscience, as it is such, not for its particular modes against its general principles. One may be right, another mistaken; but if I have more strength than my brother, it shall be employed to support, not to oppress his weakness; if I have more light, it shall be used to guide, not to dazzle him. * * * * * * * * *

SPEECH

On a motion for leave to bring in a bill to repeal and alter certain acts respecting religious opinions; May 11, 1792.*

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I NEVER govern myself, no rational man ever did govern himself, by abstractions and universals. I do not put abstract ideas wholly out of any question, because I well know that under that name I should dismiss principles; and that without the guide and light of sound well-understood principles, all reasonings in politics, as in every thing else, would be only a confused jumble of particular facts and details, without the means of drawing out any sort of theoretical or practical conclusion. A statesman differs from a professor in an university; the latter has only the general view of society; the former, the statesman, has a number of circumstances to combine with those general ideas, and to take into his consideration. Circumstances are infinite, are infinitely combined, are variable and transient; he who does not take them into consideration is not erroneous, but stark mad—*dat operam ut cum ratione insaniat*—he is metaphysically mad. A statesman, never losing sight of principles, is to be guided by circumstances; and judging contrary to the exigencies of the moment, he may ruin his country for ever.

I go on this ground, that government, representing the society, has a general superintending controul over all the actions, and over all the publicly propagated doctrines of men, without which it never could provide adequately for all the wants of society; but then it is to use this power with an equitable discretion, the only bond of sovereign authority. For it is not perhaps so much by the assumption of unlawful powers, as by the unwise or unwarrantable use of those which are most legal, that governments oppose their true end and object; for there is such a thing as tyranny as well as usurpation. You can hardly state to me a case to which legislature is the most confessedly competent, in which, if the rules of benignity and prudence are not observed, the most mischievous and op-

* This motion was made by Mr. Fox; and was chiefly grounded upon a petition presented to the house of commons by the unitarian society.

pressive things may not be done. So that after all, it is a moral and virtuous discretion, and not any abstract theory of right, which keeps governments faithful to their ends. Crude unconnected truths are in the world of practice what falsehoods are in theory.

A reasonable, prudent, provident, and moderate coercion, may be a means of preventing acts of extreme ferocity and rigour; for by propagating excessive and extravagant doctrines, such extravagant disorders take place as require the most perilous and fierce corrections to oppose them. It is not morally true, that we are bound to establish in every country that form of religion which in *our* minds is most agreeable to truth, and conduces most to the eternal happiness of mankind. In the same manner it is not true that we are, against the conviction of our own judgments, to establish a system of opinions and practices directly contrary to those ends, only because some majority of the people told by the head may prefer it. No conscientious man would willingly establish what he knew to be false and mischievous in religion, or in any thing else. No wise man, on the contrary, would tyrannically set up his own sense so as to reprobate that of the great prevailing body of the community, and pay no regard to the established opinions and prejudices of mankind, or refuse to them the means of securing a religious instruction suitable to these prejudices: A great deal depends on the state in which you find men.
* * * * *

An alliance between church and state in a christian commonwealth is, in my opinion, an idle and a fanciful speculation. An alliance is between two things that are in their nature distinct and independent, such as between two sovereign states. But in a christian commonwealth, the church and the state are one and the same thing, being different integral parts of the same whole. For the church has been always divided into two parts, the clergy and the laity; of which the laity is as much an essential integral part, and has as much its duties and privileges, as the clerical member; and in the rule, order and government of the church, has its share. Religion is so far, in my opinion, from being out of the province or the duty of a christian magistrate, that it is and it ought to be not only his care, but the principal thing in his care; because it is one of the great bonds of human society; and its object the supreme good, the ultimate end and object of man himself. The magistrate, who is a man, and charged with the concerns of men, and to whom very specially nothing human is remote and indifferent, has a right and a duty to watch over it with an unceasing

vigilance, to protect, to promote, to forward it by every rational, just, and prudent means. It is principally his duty to prevent the abuses which grow out of every strong and efficient principle that actuates the human mind. As religion is one of the bonds of society, he ought not to suffer it to be made the pretext of destroying its peace, order, liberty, and its security. Above all, he ought strictly to look to it when men begin to form new combinations, to be distinguished by new names, and especially when they mingle a political system with their religious opinions, true or false, plausible or implausible.

It is the interest, and it is the duty, and because it is the interest and the duty, it is the right of government, to attend much to opinions; because as opinions soon combine with passions, even when they do not produce them, they have much influence on actions. Factions are formed upon opinions; which factions become in effect bodies corporate in the state; nay, factions generate opinions in order to become a center of union, and to furnish watch-words to parties; and this may make it expedient for government to forbid things in themselves innocent and neutral. I am not fond of defining with precision what the ultimate rights of the sovereign supreme power, in providing for the safety of the commonwealth, may be or may not extend to. It will signify very little what my notions, or what their own notions on the subject may be, because, according to the exigence, they will take in fact the steps which seem to them necessary for the preservation of the whole; for as self-preservation in individuals is the first law of nature, the same will prevail in societies, who will, right or wrong, make that an object paramount to all other rights whatsoever. There are ways and means by which a good man would not even save the commonwealth. * * * * * All things founded on the idea of danger ought in a great degree to be temporary. All policy is very suspicious, that sacrifices any part to the ideal good of the whole. The object of the state is (as far as may be) the happiness of the whole. Whatever makes multitudes of men utterly miserable, can never answer that object; indeed it contradicts it wholly and entirely; and the happiness or misery of mankind, estimated by their feelings and sentiments, and not by any theories of their rights, is, and ought to be, the standard for the conduct of legislators towards the people. This naturally and necessarily conducts us to the peculiar and characteristic situation of a people, and to a knowledge of their opinions, prejudices, habits, and all the circumstances that diversify and colour life. The first question a good states-

man would ask himself, therefore, would be, how and in what circumstances do you find the society, and to act upon them.

To the other laws relating to other sects I have nothing to say. I only look to the petition which has given rise to this proceeding. I confine myself to that, because, in my opinion, its merits have little or no relation to that of the other laws which the right honourable gentleman has with so much ability blended with it. With the catholics, with the presbyterians, with the anabaptists, with the independents, with the quakers, I have nothing at all to do. They are in *possession*, a great title in all human affairs. The tenor and spirit of our laws, whether they were restraining or whether they were relaxing, have hitherto taken another course. The spirit of our laws has applied their penalty or their relief to the supposed abuse to be repressed, or the grievance to be relieved; and the provision for a catholic and a quaker has been totally different according to his exigence; you did not give a catholic liberty to be freed from an oath, or a quaker power of saying mass with impunity. You have done this, because you never have laid it down as an universal proposition, as a maxim, that nothing relative to religion was your concern, but the direct contrary; and therefore you have always examined whether there was a grievance. It has been so at all times; the legislature, whether right or wrong, went no other way to work but by circumstances, times and necessities. My mind marches the same road; my school is the practice and usage of parliament.

Old religious factions are volcanoes burnt out; on the lava and ashes and squalid scoriæ of old eruptions grow the peaceful olive, the cheering vine, and the sustaining corn. Such was the first, such the second condition of Vesuvius. But when a new fire bursts out, a face of desolation comes on, not to be rectified in ages. Therefore, when men come before us, and rise up like an exhalation from the ground, they come in a questionable shape, and we must *exorcise* them, and try whether their intents be wicked or charitable; whether they bring airs from heaven or blasts from hell. This is the first time that our records of parliament have heard, or our experience or history given us an account of any religious congregation or association known by the name which these petitioners have assumed. We are now to see by what people, of what character, and under what temporary circumstances, this business is brought before you. We are to see whether there be any and what mixture of political dogmas and political practices with their religious tenets, of what nature they are, and how far they are at present practically separable from them. This faction (the authors of the

petition) are not confined to a *theological* sect, but are also a *political* faction. 1st. As theological, we are to show that they do not aim at the quiet enjoyment of their own liberty, but are *associated* for the express purpose of proselytism. In proof of this first proposition, read their primary association. 2d. That their purpose of proselytism is to collect a multitude sufficient by force and violence to overturn the church; in proof of the second proposition, see the letter of Priestley to Mr. Pitt, and extracts from his works. 3d. That the designs against the church are concurrent with a design to subvert the state. In proof of the third proposition, read the advertisement of the Unitarian Society for celebrating the 14th of July. 4th. On what *model* they intend to build, that it is the *French*. In proof of the fourth proposition, read the correspondence of the Revolution Society with the clubs of France; read Priestley's adherence to their opinions. 5th. What the *French* is with regard to religious toleration, and with regard to, 1. Religion—2. Civil happiness—3. Virtue, order, and real liberty—4. Commercial opulence—5. National defence. In proof of the fifth proposition, read the representation of the French minister of the home department, and the report of the committee upon it.

Formerly, when the superiority of two parties contending for dogmas and an establishment was the question, we knew in such a contest the whole of the evil. We knew, for instance, that calvinism would prevail according to the Westminster catechism with regard to *tenets*. We knew that presbytery would prevail in *church government*. But we do not know what opinions would prevail if the present dissenters should become masters. They will not tell us their present opinions, and one principle of modern dissent is not to discover them. Next, as their religion is in a continual fluctuation, and is so by principle and in profession, it is impossible for us to know what it will be. If religion only related to the individual, and was a question between God and the conscience, it would not be wise, nor in my opinion equitable, for human authority to step in.—But when religion is embodied into faction, and factions have objects to pursue, it will and must, more or less, become a question of power between them. If, even when embodied into congregations, they limited their principle to their own congregations, and were satisfied themselves to abstain from what they thought unlawful, it would be cruel, in my opinion, to molest them in that tenet and a consequent practice. But we know that they not only entertain these opinions, but entertain them with a zeal for propagating them by force, and employing the power of law and place to destroy establishments, if ever they

should come to power sufficient to effect their purpose; that is, in other words, they declare they would persecute the heads of our church; and the question is, whether you should keep them within the bounds of toleration, or subject yourself to their persecution.

A bad and very censurable practice it is to warp doubtful and ambiguous expressions to a perverted sense, which makes the charge not the crime of others, but the construction of your own malice; nor is it allowed to draw conclusions from allowed premises, which those who lay down the premises utterly deny and disown as their conclusions. For this, though it may possibly be good logic, cannot by any possibility whatsoever be a fair or charitable representation of any man or any set of men. It may show the erroneous nature of principles, but it argues nothing as to dispositions and intentions. Far be such a mode from me. A mean and unworthy jealousy it would be to do any thing upon the mere speculative apprehension of what men will do. But let us pass by *our* opinions concerning the danger of the church. What do the gentlemen themselves think of that danger? They, from whom the danger is apprehended, what do they declare to be their own designs? What do they conceive to be their own forces? and what do they proclaim to be their means? Their designs they declare to be to destroy the established church, and not to set up a new one of their own. See Priestley. If they should find the state stick to the church, the question is, whether they love the constitution in *state* so well as that they would not destroy the constitution of the state in order to destroy that of the church. Most certainly they do not.

The foundations on which obedience to governments is founded, are not to be constantly discussed. That we are here, supposes the discussion already made, and the dispute settled. We must assume the rights of what represents the public to control the individual to make his will and his acts to submit to their will, until some intolerable grievance shall make us know that it does not answer its end, and will submit neither to reformation or restraint. Otherwise we should dispute all the points of morality, before we can punish a murderer, robber, and adulterer; we should analyze all society. Dangers, by being despised, grow great; so they do by absurd provision against them. *Stulti est dixisse non putâram.* Whether an early discovery of evil designs, an early declaration, and an early precaution against them, be more wise than to stifle all inquiry about them, for fear they should declare themselves more early than otherwise they would, and therefore precipitate the

evil—all this depends on the reality of the danger. Is it only an unbookish jealousy, as Shakspeare calls it? It is a question of fact, does a design against the constitution of this country exist? If it does, and if it is carried on with increasing vigour and activity by a restless faction, and if it receives countenance by the most ardent and enthusiastic applauses of its object, in the great council of this kingdom, by men of the first parts which this kingdom produces, perhaps by the first it has ever produced, can I think that there is no danger? If there be danger, must there be no precaution at all against it? If you ask whether I think the danger urgent and immediate, I answer, thank God, I do not. The body of the people is yet sound, the constitution is in their hearts, while wicked men are endeavouring to put another into their heads. But if I see the very same beginnings which have commonly ended in great calamities, I ought to act as if they might produce the very same effects. Early and provident fear is the mother of safety; because in that state of things the mind is firm and collected, and the judgment unembarrassed. But when the fear and the evil feared come on together, and press at once upon us, deliberation itself is ruinous, which saves upon all other occasions; because, when perils are instant, it delays decision; the man is in a flutter and in a hurry, and his judgment is gone as the judgment of the deposed king of France and his ministers was gone, if the latter did not premeditately betray him. He was just come from his usual amusement of hunting, when the head of the column of treason and assassination was arrived at his house. Let not the king, let not the prince of Wales be surprised in this manner. Let not both houses of parliament be led in triumph along with him, and have law dictated to them by the Constitutional, the Revolution, and the Unitarian Societies. These insect reptiles, whilst they go on only caballing and toasting, only fill us with disgust: if they get above their natural size, and increase the quantity, whilst they keep the quality of their venom, they become objects of the greatest terror. A spider in his natural size is only a spider, ugly and loathsome; and his flimsy net is only fit for catching flies. But, good God! suppose a spider as large as an ox, and that he spread cables about us, all the wilds of Africa would not produce any thing so dreadful—

> Quale portentum neque militaris
> Daunia in latis alit esculetis,
> Nec Jubæ tellus generat leonum
> Arida nutrix.

Think of them who dare menace in the way they do in their present state, what would they do if they had power commensurate to their malice. God forbid I ever should have a despotic master—but if I must, my choice is made. I will have Louis the XVIth, rather than Monsieur Baily, or Brissot, or Chabot; rather George the IIId, or George the IVth, than Dr. Priestley or Dr. Kippis, persons who would not load a tyrannous power by the poisoned taunts of a vulgar low-bred insolence. I hope we have still spirit enough to keep us from the one or the other. The contumelies of tyranny are the worst parts of it.

But if the danger be existing in reality, and silently maturing itself to our destruction, what, is it not better to take *treason* unprepared, than that *treason* should come by surprise upon us, and take us unprepared? If we must have a conflict, let us have it with all our forces fresh about us, with our government in full function and full strength, our troops uncorrupted, our revenues in the legal hands, our arsenals filled and possessed by government; and not wait till the conspirators, met to commemorate the 14th of July, shall seize on the tower of London, and the magazines it contains, murder the governor and the mayor of London, seize upon the king's person, drive out the house of lords, occupy your gallery, and thence, as from an high tribunal, dictate to you. The degree of danger is, not only from the circumstances which threaten, but from the value of the objects which are threatened. A small danger menacing an inestimable object is of more importance than the greatest perils which regard one that is indifferent to us. The whole question of the danger depends upon facts. The first fact is, whether those who sway in France at present confine themselves to the regulation of their internal affairs, or whether upon system they nourish cabals in all other countries, to extend their power by producing revolutions similar to their own. 2. The next is, whether we have any cabals formed or forming within these kingdoms, to co-operate with them for the destruction of our constitution. On the solution of these two questions, joined with our opinion of the value of the object to be affected by their machinations, the justness of our alarm and the necessity of our vigilance must depend. Every private conspiracy, every open attack upon the laws is dangerous. One robbery is an alarm to all property; else, I am sure, we exceed measure in our punishment. As robberies increase in number and audacity, the alarm increases. These wretches are at war with us upon principle. They hold this government to be an usurpation. See the language of the department.

The whole question is on the *reality* of the danger. Is it such a danger as would justify that fear, *qui cadere potest in hominem constantem et non meluentem?* This is the fear which the principles of jurisprudence declare to be a lawful and justifiable fear. When a man threatens my life openly and publicly, I may demand from him securities of the peace. When every act of a man's life manifests such a design stronger than by words, even though he does not make such a declaration, I am justified in being on my guard. They are of opinion, that they are already one-fifth of the kingdom. If so, their force is naturally not contemptible. To say that in all contests the decision will of course be in favour of the greater number, is by no means true in fact. For, first, the greater number is generally composed of men of sluggish tempers, slow to act and unwilling to attempt; and, by being in possession, are so disposed to peace, that they are unwilling to take early and vigorous measures for their defence, and they are almost always caught unprepared.

> Nec cõiere pares: alter vergentibus annis
> In senium: longoque togæ tranquillior usu
> Dedidicit jam pace ducem;
> Nec reparare novas vires, multùmque priori
> Credere fortunæ: Stat magni nominis umbra.*

A smaller number, more expedite, awakened, active, vigorous and courageous, who make amends for what they want in weight by their superabundance of velocity, will create an acting power of the greatest possible strength. When men are furiously and fanatically fond of an object, they will prefer it, as is well known, to their own peace, to their own property, and to their own lives; and can there be a doubt in such a case that they would prefer it to the peace of their country? Is it to be doubted, that if they have not strength enough at home, they will call in foreign force to aid them? Would you deny them *what is reasonable* for fear they should? Certainly not. It would be barbarous to pretend to look into the minds of men: I would go further, it would not be just even to trace consequences from principles, which, though evident to me, were denied by them. Let them disband as a faction, and let them act as individuals; and when I see them with no other views than to enjoy their own conscience in peace, I for one shall most cheerfully vote for their relief.

* Lucan, l. 129 to 135.

A tender conscience, of all things, ought to be tenderly handled; for if you do not, you injure not only the conscience, but the whole moral frame and constitution is injured, recurring at times to remorse, and seeking refuge only in making the conscience callous. But the conscience of faction, the conscience of sedition, the conscience of conspiracy, war, and confusion * * * * * *

Whether any thing be proper to be denied which is right in itself, because it may lead to the demand of others which it is improper to grant;—abstractedly speaking, there can be no doubt that this question ought to be decided in the negative. But as no moral questions are ever abstract questions, this, before I judge upon any abstract proposition, must be embodied in circumstances; for since things are right or wrong, morally speaking, only by their relation and connexion with other things, this very question of what it is politically right to grant, depends upon this relation to its effects. It is the direct office of wisdom to look to the consequences of the acts we do; if it be not this, it is worth nothing—it is out of place and of function; and a downright fool is as capable of government as Charles Fox. A man desires a sword; why should he be refused? a sword is a means of defence, and defence is the natural right of man; nay, the first of all his rights, and which comprehends them all. But if I know that the sword desired is to be employed to cut my own throat, common sense, and my own self-defence, dictate to me to keep out of his hands this natural right of the sword. But whether this denial be wise or foolish, just or unjust, prudent or cowardly, depends entirely on the state of the man's means. A man may have very ill dispositions, and yet be so very weak as to make all precaution foolish. See whether this be the case of these dissenters, as to their designs, as to their means, numbers, activity, zeal, foreign assistance.

The first question to be decided, when we talk of the church's being in danger from any particular measure, is, whether the danger to the church is a public evil; for to those who think that the national church establishment is itself a national grievance, to desire them to forward or to resist any measure upon account of its conducing to the safety of the church, or averting its danger, would be to the last degree absurd. If you have reason to think thus of it, take the reformation instantly into your own hands whilst you are yet cool, and can do it in measure and proportion, and not under the influence of election tests and popular fury. But here I assume that by far the greater number of those who compose

the house, are of opinion, that this national church establishment is a great national benefit, a great public blessing, and that its existence or its non-existence of course, is a thing by no means indifferent to the public welfare: then, to them, its danger or its safety must enter deeply into every question which has a relation to it. It is not because ungrounded alarms have been given, that there never can exist a real danger; perhaps the worst effect of an ungrounded alarm, is to make people insensible to the approach of a real peril. Quakerism is strict, methodical, in its nature highly aristocratical, and so regular, that it has brought the whole community to the condition of one family; but it does not actually interfere with the government. The principle of your petitioners is no passive conscientious dissent on account of an over-scrupulous habit of mind; the dissent on their part is fundamental, goes to the very root; and it is at issue not upon this rite or that ceremony, on this or that school opinion; but upon this one question of an establishment, as unchristian, unlawful, contrary to the Gospel, and to natural right, popish and idolatrous. These are the principles violently and fanatically held and pursued—taught to their children, who are sworn at the altar like Hannibal. The war is with the establishment itself, no quarter, no compromise. As a party, they are infinitely mischievous; see the declarations of Priestley and Price—declarations you will say, of *hot* men. Likely enough—but who are the *cool* men who have disclaimed them? not one—no, not one. Which of them has ever told you that they do not mean to *destroy the church*, if ever it should be in their power? Which of them has told you that this would not be the first and favourite use of any power they should get? not one—no, not one. Declarations of hot men! The danger is thence that they are under the *conduct* of hot men; *falsos in amore odia non fingere.*

They say, they are well affected to the state, and mean only to destroy the church. If this be the utmost of their meaning, you must first consider whether you wish your church establishment to be destroyed; if you do, you had much better do it now in temper, in a grave, moderate, and parliamentary way. But if you think otherwise, and that you think it to be an invaluable blessing, a way fully sufficient to nourish a manly, rational, solid, and at the same time humble piety; if you find it well fitted to the frame and pattern of your civil constitution; if you find it a barrier against fanaticism, infidelity and atheism; if you find that it furnishes support to the human mind in the afflictions and distresses of the world, consolation

in sickness, pain, poverty, and death; if it dignifies our nature with the hope of immortality, leaves inquiry free whilst it preserves an authority to teach where authority only can teach, *communia altaria, æque ac patriam, diligite, colite, fovete.*

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In the discussion of this subject, which took place in the year 1790, Mr. Burke declared his intention, in case the motion for repealing the test acts had been agreed to, of proposing to substitute the following test in the room of what was intended to be repealed. "I, *A. B.* do, in the presence of God, sincerely profess and believe, that a religious establishment in this state, is not contrary to the law of God, or disagreeable to the law of nature, or to the true principles of the christian religion, or that it is noxious to the community; and I do sincerely promise and engage, before God, that I never will, by any conspiracy, contrivance, or political device whatever, attempt, or abet others in any attempt, to subvert the constitution of the church of England, as the same is now by law established, and that I will not employ any power or influence which I may derive from any office corporate, or any other office, which I hold, or shall hold under his majesty, his heirs and successors, to destroy and subvert the same; or, to cause members to be elected into any corporation, or into parliament, give my vote in the election of any member or members of parliament, or into any office, for, or on account of their attachment to any other, or different religious opinions or establishments, or with any hope that they may promote the same to the prejudice of the established church, but will dutifully and peaceably content myself with my private liberty of conscience, as the same is allowed by law."

"So help me God."

SPEECH

*On the motion made in the house of commons, the 7th of February, 1771, relative to the Middlesex election.**

* * * * * * * * * *

In every complicated constitution (and every free constitution is complicated) cases will arise, when the several orders of the state will clash with one another; and disputes will arise about the limits of their several rights and privileges. It may be almost impossible to reconcile them. * * * *

Carry the principle on by which you expelled Mr. Wilkes, there is not a man in the house, hardly a man in the nation, who may not be disqualified. That this house should have no power of expulsion is an hard saying. That this house should have a general discretionary power of disqualification is a dangerous saying. That the people should not choose their own representative is a saying that shakes the constitution. That this house should name the representative, is a saying which, followed by practice, subverts the constitution. They have the right of electing, you have a right of expelling; they of choosing, you of judging, and only of judging, of the choice. What bounds shall be set to the freedom of that choice? Their right is prior to ours, we all originate there. They are the mortal enemies of the house of commons who would persuade them to think or to act, as if they were a self-originated magistracy, independent of the people, and unconnected with their opinions and feelings. Under a pretence of exalting the dignity, they undermine the very foundations of this house. When the question is asked *here*, what disturbs the people, whence all this clamour, we apply to the treasury bench, and they tell us it is from the efforts of libellers and the wickedness of the people, a worn-out ministerial pretence; if abroad the people are deceived by popular, within we are deluded by ministerial cant. The question amounts to this, whether you mean to be a legal tribunal, or an arbitrary and despotic assembly. I see and I feel the delicacy and difficulty of the ground upon which we stand in this question. I could wish, indeed,

* This motion, which was for leave to bring in a bill to ascertain the rights of the electors in respect to the eligibility of persons to serve in parliament, was rejected by a majority of 167 against 103.

that they who advise the crown, had not left parliament in this very ungraceful distress, in which they can neither retract with dignity, nor persist with justice. Another parliament might have satisfied the people without lowering themselves. But our situation is not in our own choice; our conduct in that situation is all that is in our own option. The substance of the question is, to put bounds to your own power by the rules and principles of law. This is, I am sensible, a difficult thing to the corrupt, grasping, and ambitious part of human nature. But the very difficulty argues and enforces the necessity of it. First, because the greater the power, the more dangerous the abuse. Since the revolution, at least, the power of the nation has all flowed with a full tide into the house of commons. Secondly, because the house of commons, as it is the most powerful, is the most corruptible part of the whole constitution. Our public wounds cannot be concealed; to be cured, they must be laid open. The public does think we are a corrupt body. In our *legislative capacity* we are in most instances esteemed a very wise body. In our judicial, we have no credit, no character at all. Our judgments stink in the nostrils of the people. They think us to be not only without virtue, but without shame. Therefore the greatness of our power, and the great and just opinion of our corruptibility and our corruption, render it necessary to fix some bound, to plant some land-mark which we are never to exceed. This is what the bill proposes. First, on this head, I lay it down as a fundamental rule in the law and constitution of this country, that this house has not by itself alone a legislative authority in any case whatsoever. I know that the contrary was the doctrine of the usurping house of commons which threw down the fences and bulwarks of law, which annihilated first the lords, then the crown, then its constituents. But the first thing that was done on the restoration of the constitution, was to settle this point. Secondly, I lay it down as a rule, that the power of occasional incapacitation on discretionary grounds is a legislative power. In order to establish this principle, if it should not be sufficiently proved by being stated, tell me what are the criteria, the characteristics, by which you distinguish between a legislative and a juridical act. It will be necessary to state shortly the difference between a legislative and a juridical act. A legislative act has no reference to any rule but these two, original justice and discretionary application. Therefore it can give rights, rights where no rights existed before; and it can take away rights where they were before established. For the law which binds all others, does not and cannot bind the law-maker;

he, and he alone, is above the law. But a judge, a person exercising a judicial capacity, is neither to apply to original justice, nor to a discretionary application of it. He goes to justice and discretion only at second hand, and through the medium of some superiors. He is to work neither upon his opinion of the one nor of the other; but upon a fixed rule, of which he has not the making, but singly and solely the *application* to the case.

The power assumed by the house neither is nor can be judicial power exercised according to known law. The properties of law are, first, that it should be known; secondly, that it should be fixed, and not occasional. First, this power cannot be according to the first property of law; because no man does or can know it, nor do yourselves know upon what grounds you will vote the incapacity of any man. No man in Westminster Hall, or in any court upon earth, will say that is law upon which, if a man going to his counsel should say to him, What is my tenure in law of this estate, he would answer truly, sir, I know not, the court has no rule but its own discretion; they will determine. It is not a fixed law—because you profess you vary it according to the occasion, exercise it according to your discretion; no man can call for it as a right. It is argued that the incapacity is not originally voted, but a consequence of a power of expulsion: but if you expel, not upon legal but upon arbitrary, that is, upon discretionary grounds, and the incapacity is *ex vi termini*, and inclusively comprehended in the expulsion, is not the incapacity voted in the expulsion? Are they not convertible terms? And if incapacity is voted to be inherent in expulsion, if expulsion be arbitrary, incapacity is arbitrary also. I have therefore shown, that the power of incapacitation is a legislative power; I have shown that legislative power does not belong to the house of commons; and therefore it follows that the house of commons has not a power of incapacitation.

I know not the origin of the house of commons, but am very sure that it did not create itself; the electors were prior to the elected: whose rights originated either from the people at large, or from some other form of legislature, which never could intend for the chosen a power of superseding the choosers.

If you have not a power of declaring an incapacity simply by the mere act of declaring it, it is evident to the most ordinary reason you cannot have a right of expulsion, inferring or rather including an incapacity. For as the law, when it gives any direct right, gives also as necessary incidents all the means of acquiring the possession of that right, so where it does not give

a right directly, it refuses all the means by which such a right may by any mediums be exercised, or in effect be indirectly acquired. Else it is very obvious that the intention of the law in refusing that right might be entirely frustrated, and the whole power of the legislature baffled. If there be no certain invariable rule of eligibility, it were better to get simplicity, if certainty is not to be had, and to resolve all the franchises of the subject into this one short proposition—the will and pleasure of the house of commons.

The argument drawn from the courts of law applying the principles of law to new cases as they emerge, is altogether frivolous, inapplicable, and arises from a total ignorance of the bounds between civil and criminal jurisdiction, and of the separate maxims that govern these two provinces of law that are eternally separate. Undoubtedly the courts of law, where a new case comes before them, as they do every hour, then, that there may be no defect in justice, call in similar principles, and the example of the nearest determination, and do every thing to draw the law to as near a conformity to general equity and right reason as they can bring it with its being a fixed principle. *Boni judicis est ampliare justitiam*—that is, to make open and liberal justice. But in criminal matters this parity of reason and these analogies ever have been, and ever ought to be shunned.

Whatever is incident to a court of judicature is necessary to the house of commons, as judging in elections. But a power of making incapacities is not necessary to a court of judicature—therefore a power of making incapacities is not necessary to the house of commons.

Incapacity, declared by whatever authority, stands upon two principles: First, an incapacity arising from the supposed incongruity of two duties in the commonwealth. Secondly, an incapacity arising from unfitness by infirmity of nature or the criminality of conduct. As to the first class of incapacities, they have no *hardship* annexed to them. The persons so incapacitated, are paid by one dignity for what they abandon in another, and for the most part the situation arises from their own choice. But as to the second, arising from an unfitness not fixed by nature, but superinduced by some positive acts, or arising from honourable motives, such as an occasional personal disability, of all things it ought to be defined by the fixed rule of law—what Lord Coke calls the golden metwand of the law, and not by the crooked cord of discretion. Whatever is general is better borne. We take our common lot with men of the same description. But to be selected and marked out by a

particular brand of unworthiness among our fellow-citizens, is a lot of all others the hardest to be borne; and consequently is of all others that act which ought only to be trusted to the legislature, as not only *legislative* in its nature, but of all parts of legislature the most odious. The question is over, if this is shown not to be a legislative act. But what is very usual and natural, is to corrupt judicature into legislature. On this point it is proper to inquire whether a court of judicature, which decides without appeal, has it as a necessary incident of such judicature, that whatever it decides is *de jure* law. Nobody will, I hope, assert this, because the direct consequence would be the entire extinction of the difference between true and false judgments. For if the judgment makes the law, and not the law directs the judgment, it is impossible there should be such a thing as an illegal judgment given.

But instead of standing upon this ground, they introduce another question, wholly foreign to it, whether it ought not to be submitted to as if it were law. And then the question is—By the constitution of this country, what degree of submission is due to the authoritative acts of a limited power? This question of submission, determine it how you please, has nothing to do in this discussion and in this house. Here it is not how long the people are bound to tolerate the illegality of our judgments, but whether we have a right to substitute our occasional opinion in the place of law; so as to deprive the citizen of his franchise. * * * * * * * *

SPEECH

On a Bill for shortening the duration of Parliaments. *

It is always to be lamented when men are driven to search into the foundations of the commonwealth. It is certainly necessary to resort to the theory of your government, whenever you propose any alteration in the frame of it, whether that alteration means the revival of some former antiquated and forsaken constitution of state, or the introduction of some new improvement in the commonwealth. The object of our deliberation is, to promote the good purposes for which elections have been instituted, and to prevent their inconveniences. If we thought frequent elections attended with no inconvenience, or with but a trifling inconvenience, the strong overruling principle of the constitution would sweep us like a torrent towards them. But your remedy is to be suited to your disease—your present disease, and to your whole disease. That man thinks much too highly, and therefore he thinks weakly and delusively, of any contrivance of human wisdom, who believes that it can make any sort of approach to perfection. There is not, there never was, a principle of government under heaven that does not in the very pursuit of the good it proposes, naturally and inevitably lead into some inconvenience, which makes it absolutely necessary to counterwork and weaken the application of that first principle itself; and to abandon something of the extent of the advantage you proposed by it, in order to prevent also the inconveniences which have arisen from the instrument of all the good you had in view.

To govern according to the sense, and agreeably to the interests of the people, is a great and glorious object of government. This object cannot be obtained but through the medium of popular election; and popular election is a mighty evil. It is such, and so great an evil, that though there are few nations whose monarchs were not originally elective, very few are now elected. They are the distempers of elections that have destroyed all free states. To cure these distempers is difficult, if not impossible; the only thing therefore left to

* This speech was delivered upon one of those motions which for many successive years were made by Mr. Sawbridge for shortening the duration of Parliaments; but the precise date cannot be ascertained.

save the commonwealth, is to prevent their return too frequently. The objects in view are, to have parliaments as frequent as they can be, without distracting them in the prosecution of public business; on one hand, to secure their dependence upon the people; on the other, to give them that quiet in their minds, and that ease in their fortunes, as to enable them to perform the most arduous and most painful duty in the world with spirit, with efficiency, with independency, and with experience, as real public counsellors, not as the canvassers at a perpetual election. It is wise to compass as many good ends as possibly you can, and seeing there are inconveniences on both sides, with benefits on both, to give up a part of the benefit to soften the inconvenience. The perfect cure is impracticable, because the disorder is dear to those from whom alone the cure can possibly be derived. The utmost to be done is to palliate, to mitigate, to respite, to put off the evil day of the constitution to its latest possible hour, and may it be a very late one!

This bill I fear would precipitate one of two consequences, I know not which most likely, or which most dangerous; either that the crown, by its constant stated power, influence, and revenue, would wear out all opposition in elections, or that a violent and furious popular spirit would arise. I must see, to satisfy me, the remedies; I must see, from their operation in the cure of the old evil, and in the cure of those new evils which are inseparable from all remedies, how they balance each other, and what is the total result. The excellence of mathematics and metaphysics, is to have but one thing before you; but he forms the best judgment in all moral disquisitions, who has the greatest number and variety of considerations in one view before him, and can take them in with the best possible consideration of the middle results of all.

We of the opposition, who are not friends to the bill, give this pledge at least of our integrity and sincerity to the people, that in our situation of systematic opposition to the present ministers, in which all our hope of rendering it effectual depends upon popular interest and favour, we will not flatter them by a surrender of our uninfluenced judgment and opinion; we give a security, that if ever we should be in another situation, no flattery to any other sort of power and influence would induce us to act against the true interests of the people.

All are agreed that parliament should not be perpetual; the only question is, What is the most convenient time for their duration? On which there are three opinions. We are agreed too, that the term ought not to be chosen most likely in its operation to spread corruption, and to augment the already

overgrown influence of the crown. On these principles I mean to debate the question. It is easy to pretend a zeal for liberty. Those who think themselves not likely to be encumbered with the performance of their promises, either from their known inability or total indifference about the performance, never fail to entertain the most lofty ideas. They are certainly the most specious, and they cost them neither reflection to frame, nor pains to modify, nor management to support. The task is of another nature to those who mean to promise nothing that it is not in their intention or may possibly be in their power to perform; to those who are bound and principled no more to delude the understandings than to violate the liberty of their fellow-subjects. Faithful watchmen we ought to be over the rights and privileges of the people. But our duty, if we are qualified for it as we ought, is to give them information, and not to receive it from them; we are not to go to school to them to learn the principles of law and government. In doing so, we should not dutifully serve, but we should basely and scandalously betray the people, who are not capable of this service by nature, nor in any instance called to it by the constitution. I reverentially look up to the opinion of the people, and with an awe that is almost superstitious. I should be ashamed to show my face before them, if I changed my ground, as they cried up or cried down men, or things, or opinions; if I wavered and shifted about with every change, and joined in it, or opposed, as best answered any low interest or passion; if I held them up hopes, which I knew I never intended, or promised what I well knew I could not perform. Of all these things they are perfect sovereign judges without appeal; but as to the detail of particular measures, or to any general schemes of policy, they have neither enough of speculation in the closet, nor of experience in business to decide upon it. They can well see whether we are tools of a court or their honest servants. Of that they can well judge, and I wish that they always exercised their judgment; but of the particular merits of a measure I have other standards. * * * * * * * * * That the frequency of elections proposed by this bill has a tendency to increase the power and consideration of the electors, not lessen corruptibility, I do most readily allow; so far it is desirable; this is what it has, I will tell you now what it has not. 1st. It has no sort of tendency to increase their integrity and public spirit, unless an increase of power has an operation upon voters in elections that it has in no other situation in the world, and upon no other part of mankind. 2d. This bill has no tendency to limit the quan-

tity of influence in the crown, to render its operation more difficult, or to counteract that operation which it cannot prevent in any way whatsoever. It has its full weight, its full range, and its uncontrolled operation on the electors exactly as it had before. 3d. Nor, thirdly, does it abate the interest or inclination of ministers to apply that influence to the electors: on the contrary, it renders it much more necessary to them, if they seek to have a majority in parliament, to increase the means of that influence, and redouble their diligence, and to sharpen dexterity in the application. The whole effect of the bill is therefore the removing the application of some part of the influence from the elected to the electors, and further to strengthen and extend a court interest already great and powerful in boroughs; here to fix their magazines and places of arms, and thus to make them the principal, not the secondary theatre of their manœuvres for securing a determined majority in parliament.

I believe nobody will deny that the electors are corruptible. They are men; it is saying nothing worse of them; many of them are but ill informed in their minds, many feeble in their circumstances, easily over-reached, easily seduced. If they are many, the wages of corruption are the lower; and would to God it were not rather a contemptible and hypocritical adulation than a charitable sentiment, to say that there is already no debauchery, no corruption, no bribery, no perjury, no blind fury and interested faction among the electors in many parts of this kingdom: nor is it surprising or at all blameable in that class of private men, when they see their neighbours aggrandized and themselves poor and virtuous without that *eclat* or dignity which attends men in higher situations.

But admit it were true that the great mass of the electors were too vast an object for court influence to grasp or extend to, and that in despair they must abandon it; he must be very ignorant of the state of every popular interest, who does not know that in all the corporations, all the open boroughs, indeed, in every district of the kingdom, there is some leading man, some agitator, some wealthy merchant, or considerable manufacturer, some active attorney, some popular preacher, some money-lender, &c. &c. who is followed by the whole flock. This is the style of all free countries. *Multum in Fabiâ valet hic, valet ille Veliná; cuilibet hic fasces dabit eripietque curule.* These spirits, each of which informs and governs his own little orb, are neither so many, nor so little powerful, or so incorruptible, but that a minister may, as he does frequently, find means of gaining them, and through them all their fol-

lowers. To establish therefore a very general influence among electors will no more be found an impracticable project, than to gain an undue influence over members of parliament. Therefore, I am apprehensive that this bill, though it shifts the place of the disorder, does by no means relieve the constitution. I went through almost every contested election in the beginning of this parliament, and acted as a manager in very many of them; by which, though as at a school of pretty severe and rugged discipline, I came to have some degree of instruction concerning the means by which parliamentary interests are in general procured and supported.

Theory, I know, would suppose that every general election is to the representative a day of judgment, in which he appears before his constituents to account for the use of the talent with which they entrusted him, and of the improvement he has made of it for the public advantage. It would be so if every corruptible representative were to find an enlightened and uncorruptible constituent. But the practice and knowledge of the world will not suffer us to be ignorant that the constitution on paper is one thing, and in fact and experience is another. We must know that the candidate, instead of trusting at his election to the testimony of his behaviour in parliament, must bring the testimony of a large sum of money, the capacity of liberal expense in entertainments, the power of serving and obliging the rulers of corporations, of winning over the popular leaders of political clubs, associations and neighbourhoods. It is ten thousand times more necessary to show himself a man of power than a man of integrity, in almost all the elections with which I have been acquainted. Elections therefore become a matter of heavy expense; and if contests are frequent, to many they will become a matter of an expense totally ruinous, which no fortunes can bear, but least of all the landed fortunes, incumbered as they often, indeed as they mostly are, with debts, with portions, with jointures, and tied up in the hands of the possessor by the limitations of settlement. It is a material, it is in my opinion a lasting consideration in all the questions concerning election. Let no one think the charges of elections a trivial matter.

The charge therefore of elections ought never to be lost sight of in a question concerning their frequency; because the grand object you seek is independence. Independence of mind will ever be more or less influenced by independence of fortune; and if every three years the exhausting sluices of entertainments, drinkings, open houses, to say nothing of bribery, are to be periodically drawn up and renewed; if government

favours, for which now, in some shape or other, the whole race of men are candidates, are to be called for upon every occasion, I see that private fortunes will be washed away, and every, even to the least, trace of independence borne down by the torrent. I do not seriously think this constitution, even to the wrecks of it, could survive five triennial elections. If you are to fight the battle, you must put on the armour of the ministry; you must call in the public to the aid of private money. The expense of the last election has been computed (and I am persuaded that it has not been over-rated) at 1,500,000*l.*; three shillings in the pound more in the land tax. About the close of the last parliament, and the beginning of this, several agents for boroughs went about, and I remember well that it was in every one of their mouths—"Sir, your election will cost you three thousand pounds, if you are independent; but if the ministry supports you, it may be done for two, and perhaps for less;" and indeed the thing spoke itself. Where a living was to be got for one; a commission in the army for another; a lift in the navy for a third, and custom-house offices scattered about without measure or number, who doubts but money may be saved? The treasury may even add money; but indeed it is superfluous. A gentleman of two thousand a year, who meets another of the same fortune, fights with equal arms; but if to one of the candidates you add a thousand a year in places for himself, and a power of giving away as much among others, one must, or there is no truth in arithmetical demonstration, ruin his adversary, if he is to meet him and to fight with him every third year. It will be said I do not allow for the operation of character; but I do, and I know it will have its weight in most elections; perhaps it may be decisive in some. But there are few in which it will prevent great expenses.

The destruction of independent fortunes will be the consequence on the part of the candidate. What will be the consequence of triennial corruption, triennial drunkenness, triennial idleness, triennial law-suits, litigations, prosecutions, triennial phrenzy, of society dissolved, industry interrupted, ruined; of those personal hatreds that will never be suffered to soften; those animosities and feuds which will be rendered immortal; those quarrels which are never to be appeased; morals vitiated and gangrened to the vitals! I think no stable and useful advantages were ever made by the money got at elections by the voter, but all he gets is doubly lost to the public; it is money given to diminish the general stock of the community, which is in the industry of the subject. I am sure that it is a good

while before he or his family settle again to their business. Their heads will never cool; the temptations of elections will be for ever glittering before their eyes. They will all grow politicians; every one quitting his business will choose to enrich himself by his vote. They will all take the gauging rod; new places will be made for them; they will run to the custom-house quay, their looms and ploughs will be deserted.

So was Rome destroyed by the disorders of continual elections, though those of Rome were sober disorders; they had nothing but faction, bribery, bread, and stage plays, to debauch them. We have the inflammation of liquor superadded, a fury hotter than any of them. There the contest was only between citizen and citizen; here you have the contests of ambitious citizens of one side supported by the crown, to oppose to the efforts (let it be so) of private and unsupported ambition on the other. Yet Rome was destroyed by the frequency and charge of elections, and the monstrous expense of an unremitted courtship to the people. I think, therefore, the independent candidate and elector, may each be destroyed by it; the whole body of the community be an infinite sufferer; and a vicious ministry the only gainer. Gentlemen, I know, feel the weight of this argument; they agree that this would be the consequence of more frequent elections if things were to continue as they are. But they think the greatness and frequency of the evil would itself be a remedy for it; that sitting but for a short time, the member would not find it worth while to make such vast expenses, while the fear of their constituents will hold them the more effectually to their duty.

To this I answer, that experience is full against them. This is no new thing; we have had triennial parliaments; at no period of time were seats more eagerly contested. The expenses of elections ran higher, taking the state of all charges, than they do now. The expense of entertainments was such that an act, equally severe and ineffectual, was made against it; every monument of the time bears witness of the expense, and most of the acts against corruption in elections were then made; all the writers talked of it and lamented it. Will any one think that a corporation will be contented with a bowl of punch or a piece of beef the less because elections are every three instead of every seven years? Will they change their wine for ale, because they are to get more ale three years hence? don't think it. Will they make fewer demands for the advantages of patronage in favours and offices, because their member is brought more under their power? We have not only our own historical experience in England upon this

subject, but we have the experience co-existing with us in Ireland; where, since their parliament has been shortened, the expense of elections has been so far from being lowered, that it has been very near doubled. Formerly they sat for the king's life; the ordinary charge of a seat in parliament was then 1,500*l.* They now sit eight years, four sessions; it is now 2,500*l.* and upwards. The spirit of *emulation* has also been extremely increased, and all who are acquainted with the tone of that country, have no doubt that the spirit is still growing; that new candidates will take the field; that the contests will be more violent, and the expenses of elections larger than ever.

It never can be otherwise. A seat in this house, for good purposes, for bad purposes, for no purposes at all (except the mere consideration derived from being concerned in the public counsels) will ever be a first-rate object of ambition in England. Ambition is no exact calculator. Avarice itself does not calculate strictly when it games. One thing is certain, that in this political game, the great lottery of power is that into which men will purchase with millions of chances against them. In Turkey, where the place, where the fortune, where the head itself are so insecure that scarcely any have died in their beds for ages; so that the bow-string is the natural death of bashaws; yet in no country is power and distinction (precarious enough, God knows, in all) sought for with such boundless avidity, as if the value of the place was enhanced by the danger and insecurity of its tenure. Nothing will ever make a seat in this house not an object of desire to numbers by any means or at any charge, but the depriving it of all power and all dignity; this would do it. This is the true and only nostrum for that purpose. But an house of commons without power and without dignity either in itself or its members, is no house of commons for the purposes of this constitution.

But they will be afraid to act ill if they know that the day of their account is always near. I wish it were true; but it is not. Here again we have experience, and experience is against us. The distemper of this age is a poverty of spirit and of genius; it is trifling, it is futile, worse than ignorant, superficially taught; with the politics and morals of girls at a boarding-school, rather than of men and statesmen; but it is not yet desperately wicked, or so scandalously venal as in former times. Did not a triennial parliament give up the national dignity, approve the peace of Utrecht, and almost give up every thing else in taking every step to defeat the protestant succession? Was not the constitution saved by those who had no

election at all to go to the lords, because the court applied to electors, and by various means carried them from their true interests; so that the tory ministry had a majority without an application to a single member? Now, as to the conduct of the members, it was then far from pure and independent. Bribery was infinitely more flagrant. A predecessor of your's, Mr. Speaker, put the question of his own expulsion for bribery. Sir William Musgrave was a wise man; a grave man; an independent man; a man of good fortune and good family; however he carried on while in opposition a traffick, a shameful traffick with the ministry. Bishop Burnet knew of 6,000*l.* which he had received at one payment. I believe the payment of sums in hard money, plain naked bribery, is rare amongst us. It was then far from uncommon.

A triennial was near ruining, a septennial parliament saved your constitution; nor perhaps have you ever known a more flourishing period for the union of national prosperity, dignity, and liberty, than the sixty years you have passed under that constitution of parliament.

The shortness of time in which they are to reap the profits of iniquity is far from checking the avidity of corrupt men; it renders them infinitely more ravenous. They rush violently and precipitately on their object; they lose all regard to decorum. The moments of profits are precious; never are men so wicked as during a general mortality. It was so in the great plague at Athens; every symptom of which (and this its worst symptom amongst the rest) is so finely related by a great historian of antiquity; it was so in the plague of London, in 1665. It appears in soldiers, sailors, &c. Whoever would contrive to render the life of man much shorter than it is, would, I am satisfied, find the surest receipt for increasing the wickedness of our nature.

Thus, in my opinion, the shortness of a triennial sitting would have the following ill effects: it would make the member more shamelessly and shockingly corrupt; it would increase his dependence on those who could best support him at his election; it would wrack and tear to pieces the fortunes of those who stood upon their own fortunes and their private interest; it would make the electors infinitely more venal; and it would make the whole body of the people, who are, whether they have votes or not, concerned in elections, more lawless, more idle, more debauched: it would utterly destroy the sobriety, the industry, the integrity, the simplicity of all the people; and undermine, I am much afraid, the deepest and best laid foundations of the commonwealth.

Those who have spoken and written upon this subje out doors, do not so much deny the probable existence inconveniences in their measure, as they trust for their tion to remedies of various sorts which they propose. a place bill; but if this will not do, as they fear it will n they say we will have a rotation, and a certain number shall be rendered incapable of being elected for ten Then for the electors, they shall ballot; the members liament also shall decide by ballot: a fifth project is the of the present legal representation of the kingdom. On I shall observe, that it will be very unsuitable to your to adopt the project of a bill to which there are objects superable by any thing in the bill itself, upon the hope that those objections may be removed by subsequent projects; every one of which is full of difficulties of its own, and which are all of them very essential alterations in the constitution.— This seems very irregular and unusual. If any thing should make this a very doubtful measure, what can make it more so than that, in the opinion of its advocates, it would aggravate all our old inconveniences in such a manner as to require a total alteration in the constitution of the kingdom? If the remedies are proper in a triennial, they will not be less so in septennial elections; let us try them first; see how the house relishes them; see how they will operate in the nation; and then, having felt your way and prepared against these inconveniences, * * * * * *.

The honourable gentleman sees that I respect the principle upon which he goes, as well as his intentions and his abilities. He will believe that I do not differ from him wantonly and on trivial grounds. He is very sure that it was not his embracing one way which determined me to take the other. *I* have not in newspapers, to derogate from his fair fame with the nation, printed the first rude sketch of his bill with ungenerous and invidious comments; *I* have not, in conversations, industriously circulated about the town and talked on the benches of this house, attributed his conduct to motives low and unworthy, and as groundless as they are injurious. *I* do not affect to be frightened with his proposition, as if some hideous spectre had started from hell, which was to be sent back again by every form of exorcism, and every kind of incantation. *I* invoke no Acheron to overwhelm him in the whirlpools of its muddy gulph. *I* do not tell the respectable mover and seconder, by a perversion of their sense and expressions, that their proposition halts between the ridiculous and the dangerous. *I* am not

one of those who start up, three at a time, and fall upon and strike at him with so much eagerness, that our daggers hack one another in his sides. My honourable friend has not brought down a spirited imp of chivalry to win the first achievement and blazon of arms on his milk-white shield in a field listed against him; nor brought out the generous offspring of lions, and said to them—not against that side of the forest, beware of that—here is the prey where you are to fasten your paws; and seasoning his unpractised jaws with blood, tell him—this is the milk for which you are to thirst hereafter. *We* furnish at his expense no holiday, nor suspend hell, that a crafty Ixion may have rest from his wheel; nor give the common adversary, if he be a common adversary, reason to say, I would have put in my word to oppose, but the eagerness of your allies in your social war was such that I could not break in upon you. I hope he sees and feels, and that every member sees and feels along with him, the difference between amicable dissent and civil discord.

SPEECH

On a Motion made in the House of Commons, the 7th of May, 1782, for a Committee to inquire into the state of the Representation of the Commons in Parliament.

MR. SPEAKER,

We have now discovered, at the close of the eighteenth century, that the constitution of England, which for a series of ages had been the proud distinction of this country, always the admiration, and sometimes the envy of the wise and learned in every other nation, we have discovered that this boasted constitution, in the most boasted part of it, is a gross imposition upon the understanding of mankind, an insult to their feelings, and acting by contrivances destructive to the best and most valuable interests of the people. Our political architects have taken a survey of the fabric of the British constitution. It is singular that they report nothing against the crown, nothing against the lords; but in the house of commons every thing is unsound; it is ruinous in every part. It is infested by the dry rot, and ready to tumble about our ears without their immediate help. You know by the faults they find, what are their ideas of the alteration. As all government stands upon opinion, they know that the way utterly to destroy it, is to remove that opinion, to take away all reverence, all confidence from it; and then at the first blast of public discontent and popular tumult it tumbles to the ground.

In considering this question, they who oppose it, oppose it on different grounds; one is, in the nature of a previous question; that some alterations may be expedient, but that this is not the time for making them. The other is, that no essential alterations are at all wanting: and that neither *now*, nor at *any* time, is it prudent or safe to be meddling with the fundamental principles, and ancient tried usages of our constitution—that our representation is as nearly perfect as the necessary imperfection of human affairs and of human creatures will suffer it to be, and that it is a subject of prudent and honest use and thankful enjoyment, and not of captious criticism and rash experiment.

On the other side, there are two parties who proceed on two grounds, in my opinion, as they state them, utterly irreconcileable. The one is juridical, the other political. The one is in the nature of a claim of right, on the supposed rights of man as man; this party desire the decision of a suit. The other ground, as far as I can divine what it directly means, is, that the representation is not so politically framed as to answer the theory of its institution. As to the claim of *right*, the meanest petitioner, the most gross and ignorant, is as good as the best; in some respects his claim is more favourable on account of his ignorance; his weakness, his poverty and distress, only add to his titles; he sues in *forma pauperis;* he ought to be a favourite of the court. But when the *other* ground is taken, when the question is political, when a new constitution is to be made on a sound theory of government, then the presumptuous pride of didactic ignorance is to be excluded from the counsel in this high and arduous matter which often bids defiance to the experience of the wisest. The first claims a personal representation, the latter rejects it with scorn and fervour. The language of the first party is plain and intelligible; they who plead an absolute right cannot be satisfied with any thing short of personal representation, because all *natural* rights must be the rights of individuals; as by *nature* there is no such thing as politic or corporate personality; all these ideas are mere fictions of law, they are creatures of voluntary institution; men as men are individuals, and nothing else. They, therefore, who reject the principle of natural and personal representation, are essentially and eternally at variance with those who claim it. As to the first sort of reformers, it is ridiculous to talk to them of the British constitution upon any or upon all of its bases; for they lay it down that every man ought to govern himself, and that where he cannot go himself he must send his representative; that all other government is usurpation, and is so far from having a claim to our obedience, it is not only our right but our duty to resist it. Nine-tenths of the reformers argue thus, that is, on the natural right. It is impossible not to make some reflection on the nature of this claim, or avoid a comparison between the extent of the principle and the present object of the demand. If this claim be founded, it is clear to what it goes. The house of commons in that light undoubtedly is no representative of the people as a collection of individuals. Nobody pretends it, nobody can justify such an assertion. When you come to examine into this claim of right, founded on the right of self-government in each individual, you find the thing demanded infi-

nitely short of the principle of the demand. What! one *third* only of the legislature, and of the government no share at all? What sort of treaty of partition is this for those who have an inherent right to the whole? Give them all they ask, and your grant is still a cheat; for how comes only a third to be their younger children's fortune in this settlement? How came they neither to have the choice of kings, or lords, or judges, or generals, or admirals, or bishops, or priests, or ministers, or justices of peace? Why, what have you to answer in favour of the prior rights of the crown and peerage but this—our constitution is a prescriptive constitution, it is a constitution whose sole authority is, that it has existed time out of mind. It is settled in these *two* portions against one, legislatively; and in the whole of the judicature, the whole of the federal capacity, of the executive, the prudential and the financial administration, in one alone. Nor was your house of lords and the prerogatives of the crown settled on any adjudication in favour of natural rights, for they could never be so partitioned. Your king, your lords, your judges, your juries, grand and little, all are prescriptive; and what proves it, is the disputes not yet concluded, and never near becoming so, when any of them first originated. Prescription is the most solid of all titles, not only to property, but, which is to secure that property, to government. They harmonize with each other, and give mutual aid to one another. It is accompanied with another ground of authority in the constitution of the human mind, presumption. It is a presumption in favour of any settled scheme of government against any untried project, that a nation has long existed and flourished under it. It is a better presumption even of the *choice* of a nation, far better than any sudden and temporary arrangement by actual election. Because a nation is not an idea only of local extent, and individual momentary aggregation, but it is an idea of continuity, which extends in time as well as in numbers and in space. And this is a choice not of one day, or one set of people, not a tumultuary and giddy choice; it is a deliberate election of ages and of generations; it is a constitution made by what is ten thousand times better than choice; it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time. It is a vestment, which accommodates itself to the body. Nor is prescription of government formed upon blind unmeaning prejudices—for man is a most unwise and a most wise being. The individual is foolish. The multitude for the moment is foolish, when they act without deliberation;

but the species is wise, and when time is given to it, as a species it almost always acts right.

The reason for the crown as it is, for the lords as they are, is my reason for the commons as they are, the electors as they are. Now if the crown and the lords and the judicatures are all prescriptive, so is the house of commons of the very same origin, and of no other. We and our electors have their powers and privileges both made and circumscribed by prescription as much to the full as the other parts; and as such we have always claimed them, and on no other title. The house of commons is a legislative body corporate by prescription, not made upon any given theory, but existing prescriptively—just like the rest. This prescription has made it essentially what it is, an aggregate collection of three parts, knights, citizens, burgesses. The question is, whether this has been always so since the house of commons has taken its present shape and circumstances, and has been an essential operative part of the constitution; which, I take it, it has been for at least five hundred years.

This I resolve to myself in the affirmative: and then another question arises, whether this house stands firm upon its antient foundations, and is not by time and accidents so declined from its perpendicular, as to want the hand of the wise and experienced architects of the day to set it upright again, and to prop and buttress it up for duration; whether it continues true to the principles upon which it has hitherto stood; whether this be *de facto* the constitution of the house of commons as it has been since the time that the house of commons has, without dispute, become a necessary and an efficient part of the British constitution? To ask whether a thing which has always been the same stands to its usual principle, seems to me to be perfectly absurd; for how do you know the principles but from the construction? and if that remains the same, the principles remain the same. It is true, that to say your constitution is what it has been, is no sufficient defence for those who say it is a bad constitution. It is an answer to those who say that it is a degenerate constitution. To those who say it is a bad one, I answer, look to its effects. In all moral machinery, the moral results are its test.

On what grounds do we go, to restore our constitution to what it has been at some given period, or to reform and re-construct it upon principles more conformable to a sound theory of government? A prescriptive government, such as ours, never was the work of any legislator, never was made upon any foregone theory. It seems to me a preposterous way of rea-

soning, and a perfect confusion of ideas, to take the theories which learned and speculative men have made from that government, and then supposing it made on those theories which were made from it, to accuse the government as not corresponding with them. I do not vilify theory and speculation—no, because that would be to vilify reason itself, *Neque decipitur ratio, neque decipit unquam.* No; whenever I speak against theory, I mean always a weak, erroneous, fallacious, unfounded or imperfect theory; and one of the ways of discovering, that it is a false theory, is by comparing it with practice. This is the true touchstone of all theories, which regard man and the affairs of men—does it suit his nature in general; does it suit his nature as modified by his habits?

The more frequently this affair is discussed, the stronger the case appears to the sense and the feelings of mankind. I have no more doubt than I entertain of my existence, that this very thing which is stated as an horrible thing, is the means of the preservation of our constitution whilst it lasts; of curing it of many of the disorders, which, attending every species of institution, would attend the principle of an exact local representation, or a representation on the principle of numbers. If you reject personal representation, you are pushed upon expedience; and then what they wish us to do is, to prefer their speculations on that subject to the happy experience of this country of a growing liberty and a growing prosperity for five hundred years. Whatever respect I have for their talents, this for one I will not do. Then what is the standard of expedience? Expedience is that which is good for the community, and good for every individual in it. Now this expedience is the *desideratum;* to be sought either without the experience of means, or with that experience. If without, as in case of the fabrication of a new commonwealth, I will hear the learned arguing what promises to be expedient: but if we are to judge of a commonwealth actually existing, the first thing I inquire is, what has been *found* expedient or inexpedient? and I will not take their *promise* rather than the *performance* of the constitution.

* * * But no, this was not the cause of the discontents. I went through most of the northern parts; the Yorkshire election was then raging; the year before, through most of the western counties—Bath, Bristol, Gloucester—not one word, either in the towns or country, on the subject of representation—much on the receipt tax, something on Mr. Fox's ambition; much greater apprehension of danger from thence than from want of representation. One would think that the bal-

last of the ship was shifted with us, and that our constitution had the gunnel under water. But can you fairly and distinctly point out what one evil or grievance has happened, which you can refer to the representative not following the opinion of his constituents? What one symptom do we find of this inequality? But it is not an arithmetical inequality with which we ought to trouble ourselves. If there be a moral, a political equality, this is the *desideratum* in our constitution, and in every constitution of the world. Moral inequality is as between places and between classes. Now I ask, what advantage do you find that the places which abound in representation possess over others, in which it is more scanty, in security for freedom, in security for justice, or in any one of those means of procuring temporal prosperity and eternal happiness, the ends for which society was formed? Are the local interests of Cornwall and Wiltshire, for instance, their roads, canals, their prisons, their police, better than Yorkshire, Warwickshire or Staffordshire? Warwick has members—is Warwick or Stafford more opulent, happy or free, than Newcastle or than Birmingham? Is Wiltshire the pampered favourite; whilst Yorkshire, like the child of the bondwoman, is turned out to the desert? This is like the unhappy persons, who live, if they can be said to live, in the statical chair; who are ever feeling their pulse, and who do not judge of health by the aptitude of the body to perform its functions, but by their ideas of what ought to be the true balance between the several secretions. Is a committee of Cornwall, &c. thronged, and the others deserted? No. You have an equal representation, because you have men equally interested in the prosperity of the whole, who are involved in the general interest and the general sympathy; and, perhaps, these places furnishing a superfluity of public agents and administrators (whether in strictness they are representatives or not, I do not mean to inquire, but they are agents and administrators) they will stand clearer of local interests, passions, prejudices and cabals than the others, and therefore preserve the balance of the parts, and with a more general view and a more steady hand than the rest. * * * * * * *

In every political proposal we must not leave out of the question the political views and object of the proposer; and these we discover not by what he says, but by the principles he lays down. I mean, says he, a moderate and temperate reform, that is, I mean to do as little good as possible. If the constitution be what you represent it, and there be no danger in the change, you do wrong not to make the reform commensurate to the abuse. Fine reformer indeed!

generous donor! What is the cause of this parsimony of the liberty, which you dole out to the people? Why all this limitation in giving blessings and benefits to mankind? You admit that there is an extreme in liberty which may be infinitely noxious to those who are to receive it, and which in the end will leave them no liberty at all. I think so too; they know it, and they feel it. The question is then, what is the standard of that extreme? What that gentleman and the associations, or some parts of their phalanxes, think proper. Then our liberties are in their pleasure; it depends on their arbitrary will how far I shall be free. I will have none of that freedom. If therefore the standard of moderation be sought for, I will seek for it. Where? Not in their fancies, nor in my own; I will seek for it where I know it is to be found, in the constitution I actually enjoy. Here it says to an encroaching prerogative—Your sceptre has its length, you cannot add an hair to your head, or a gem to your crown, but what an eternal law has given to it. Here it says to an overweening peerage, Your pride finds banks that it cannot overflow: here to a tumultuous and giddy people, There is a bound to the raging of the sea. Our constitution is like our island, which uses and restrains its subject sea—in vain the waves roar. In that constitution I know, and exultingly I feel, both that I am free, and that I am not free dangerously to myself or to others. I know that no power on earth, acting as I ought to do, can touch my life, my liberty, or my property. I have that inward and dignified consciousness of my own security and independence, which constitutes, and is the only thing which does constitute, the proud and comfortable sentiment of freedom in the human breast. I know too—and I bless God for my safe mediocrity—I know, that if I possessed all the talents of the gentlemen on the side of the house I sit, and on the other, I cannot by royal favour, or by popular delusion, or by oligarchichal cabal, elevate myself above a certain very limited point, so as to endanger my own fall or the ruin of my country. I know there is an order that keeps things fast in their place; it is made to us, and we are made to it. Why not ask another wife, other children, another body, another mind?

The great object of most of these reformers is to prepare the destruction of the constitution by disgracing and discrediting the house of commons. For they think, prudently in my opinion, that if they can persuade the nation that the house of commons is so constituted, as not to secure the public liberty; not to have a proper connection with the public interests, so constituted, as not either actually or virtually to be the repre-

sentative of the people, it will be easy to prove that a government, composed of a monarchy, an oligarchy chosen by the crown, and such a house of commons, whatever good can be in such a system, can by no means be a system of free government.

The constitution of England is never to have a quietus; it is to be continually vilified, attacked, reproached, resisted; instead of being the hope and sure anchor in all storms, instead of being the means of redress to all grievances, itself is the grand grievance of the nation, our shame instead of our glory. If the only specific plan proposed, individual personal representation, is directly rejected by the person, who is looked on as the great support of this business, then the only way of considering it is a question of convenience. An honourable gentleman prefers the individual to the present. He therefore himself sees no middle term whatsoever, and therefore prefers of what he sees the individual—this is the only thing distinct and sensible that has been advocated. He has then a scheme, which is the individual representation—he is not at a loss, not inconsistent—which scheme the other right honourable gentleman reprobates. Now what does this go to, but to lead directly to anarchy? For to discredit the only government, which he either possesses or can project, what is this but to destroy all government; and this is anarchy. My right honourable friend, in supporting this motion, disgraces his friends and justifies his enemies in order to blacken the constitution of his country, even of that house of commons, which supported him. There is a difference between a moral or political exposure of a public evil relative to the administration of government, whether in men or systems, and a declaration of defects real or supposed in the fundamental constitution of your country. The first may be cured in the individual by the motives of religion, virtue, honour, fear, shame, or interest; men may be made to abandon also false systems by exposing their absurdity or mischievous tendency to their own better thoughts, or to the contempt or indignation of the public; and after all, if they should exist, and exist uncorrected, they only disgrace individuals as fugitive opinions. But it is quite otherwise with the frame and constitution of the state; if that is disgraced, patriotism is destroyed in its very source. No man has ever willingly obeyed, much less was desirous of defending with his blood, a mischievous and absurd scheme of government. Our first, our dearest, most comprehensive relation, our country is gone.

It suggests melancholy reflections, in consequence of the strange course we have long held, that we are now no longer

quarrelling about the character or about the conduct of men, or the tenor of measures; but we are grown out of humour with the English constitution itself; this is become the object of the animosity of Englishmen. This constitution in former days used to be the admiration and the envy of the world; it was the pattern for politicians; the theme of the eloquent; the meditation of the philosopher in every part of the world—as to Englishmen, it was their pride, their consolation. By it they lived—for it they were ready to die. Its defects, if it had any, were partly covered by partiality, and partly borne by prudence. Now all its excellencies are forgot, its faults are now forcibly dragged into day, exaggerated by every artifice of representation; it is despised and rejected of men; and every device and invention of ingenuity or idleness set up in opposition or in preference to it. It is to this humour, and it is to the measures growing out of it, that I set myself (I hope not alone) in the most determined opposition. Never before did we at any time in this country meet upon the theory of our frame of government, to sit in judgment on the constitution of our country, to call it as a delinquent before us, and to accuse it of every defect and every vice—to see whether it, an object of our veneration, even our adoration, did or did not accord with a preconceived scheme in the minds of certain gentlemen. Cast your eyes on the journals of parliament. It is for fear of losing the inestimable treasure we have, that I do not venture to game it out of my hands for the vain hope of improving it. I look with filial reverence on the constitution of my country, and never will cut it in pieces and put it into the kettle of any magician, in order to boil it with the puddle of their compounds into youth and vigour. On the contrary, I will drive away such pretenders; I will nurse its venerable age, and with lenient arts extend a parent's breath.

SPEECH

*On a Motion made by the right hon. Wm. Dowdeswell, for leave to bring in a Bill for explaining the powers of Juries in prosecutions for Libels.**

I HAVE always understood, that a superintendence over the doctrines, as well as the proceedings of the courts of justice, was a principal object of the constitution of this house; that you were to watch at once over the lawyer and the law; that there should be an orthodox faith as well as proper works: and I have always looked with a degree of reverence and admiration on this mode of superintendence. For being totally disengaged from the detail of juridical practice, we come something perhaps the better qualified, and certainly much the better disposed to assert the genuine principle of the laws; in which we can, as a body, have no other than an enlarged and a public interest. We have no common cause of a professional attachment or professional emulations to bias our minds; we have no foregone opinions, which from obstinacy and false point of honour we think ourselves at all events obliged to support. So that with our own minds perfectly disengaged from the exercise, we may superintend the execution of the national justice; which from this circumstance is better secured to the people than in any other country under heaven it can be. As our situation puts us in a proper condition, our power enables us to execute this trust. We may, when we see cause of complaint, administer a remedy; it is in our choice by an address to remove an improper judge, by impeachment before the peers to pursue to destruction a corrupt judge, or by bill to assert, to explain, to enforce, or to reform the law, just as the occasion and necessity of the case shall guide us. We stand in a situation very honourable to ourselves, and very useful to our country, if we do not abuse or abandon the trust that is placed in us.

The question now before you is upon the power of juries in prosecuting for libels. There are four opinions: 1. That the doctrine as held by the courts is proper and constitutional, and therefore should not be altered. 2. That it is neither proper nor constitutional, but that it will be rendered worse by your

* This speech was delivered on a motion made by Mr. Dowdeswell, for leave to bring in a bill to ascertain the power of juries in prosecutions for libels; against which the question of adjournment was carried on the 7th of March, 1771.

interference. 3. That it is wrong, but that the only remedy is a bill of retrospect. 4. The opinion of those who bring in the bill—that the thing is wrong, but that it is enough to direct the judgment of the court in future.

The bill brought in is for the purpose of asserting and securing a great object in the juridical constitution of this kingdom; which, from a long series of practices and opinions in our judges, has *in one point*, and in one very essential point, deviated from the true principle.

It is the very ancient privilege of the people of England, that they shall be tried, except in the known exceptions, not by judges appointed by the crown, but by their own fellow-subjects, the peers of that county court at which they owe their suit and service; and out of this principle the trial by juries has grown. This principle has not, that I can find, been contested in any case by any authority whatsoever; but there is one case in which, without directly contesting the principle, the whole substance, energy, and virtue of the privilege is taken out of it; that is, in the case of a trial by indictment or information for a libel. The doctrine in that case laid down by several judges amounts to this, that the jury have no competence where a libel is alleged, except to find the gross corporeal facts of the writing and the publication, together with the identity of the things and persons to which it refers; but that the intent and the tendency of the work, in which intent and tendency the whole criminality consists, is the sole and exclusive province of the judge. Thus having reduced the jury to the cognizance of facts not in themselves presumptively criminal, but actions neutral and indifferent, the whole matter in which the subject has any concern or interest, is taken out of the hands of the jury; and if the jury take more upon themselves, what they so take is contrary to their duty; it is no *moral* but a merely *natural* power, the same by which they may do any other improper act, the same by which they may even perjure themselves with regard to any other part of the issue before them. Such is the matter, as it now stands, in possession of your highest criminal courts, handed down to them from very respectable legal ancestors. If this can once be established in this case, the application in principle to other cases will be easy; and the practice will run upon a descent, until the progress of an encroaching jurisdiction (for it is in its nature to encroach when once it has passed its limits) coming to confine the juries, case after case, to the corporeal fact, and to that alone, excluding the intention of mind, the only source of merit and demerit, of reward or punishment, juries become a dead letter in the constitution.

For which reason it is high time to take this matter into the consideration of parliament; and for that purpose it will be necessary to examine, first, whether there is any thing in the peculiar nature of this crime that makes it necessary to exclude the jury from considering the intention in it more than in others. So far from it, that I take it to be much less so from the analogy of other criminal cases, where no such restraint is ordinarily put upon them. The act of homicide is *prima facie* criminal. The intention is afterwards to appear, for the jury to acquit or condemn. In burglary do they insist that the jury have nothing to do but to find the taking of goods, and that if they do, they must necessarily find the party guilty, and leave the rest to the judge, and that they have nothing to do with the word *felonicè* in the indictment?

The next point is to consider it as a question of constitutional policy; that is, whether the decision of the question of libel ought to be left to the judges as a presumption of law, rather than to the jury as matter of popular judgment, as the malice in the case of murder; the felony in case of stealing. If the intent and tendency are not matters within the province of popular judgment, but legal and technical conclusions formed upon general principles of law, let us see what they are? Certainly they are most unfavourable, indeed totally adverse to the constitution of this country.

Here we must have recourse to analogies; for we cannot argue on ruled cases one way or the other. See the history. The old books, deficient in general in crown cases, furnish us with little on this head. As to the crime, in the very early Saxon law I see an offence of this species, called Folk-leasing, made a capital offence, but no very precise definition of the crime, and no trial at all. The statute of 3d Edward I. cap. 34. The law of libels could not have arrived at a very early period in this country. It is no wonder that we find no vestige of any constitution from authority, or of any deductions from legal science in our old books and records upon that subject. The statute of *Scandalum Magnatum* is the oldest that I know, and this goes but a little way in this sort of learning. Libelling is not the crime of an illiterate people. When they were thought no mean clerks who could read and write; when he who could read and write was presumptively a person in holy orders, libels could not be general or dangerous; and scandals merely *oral* could *spread* little, and must *perish* soon. It is writing, it is printing more emphatically, that imps calumny with those eagles' wings, on which, as the poet says, "immortal slanders fly." By the press they spread, they last,

they leave the sting in the wound. Printing was not known in England much earlier than the reign of Henry VII. and in the third year of that reign the court of Star Chamber was established. The press and its enemy are nearly coeval. As no positive law against libels existed, they fell under the indefinite class of misdemeanors. For the trial of misdemeanors that court was instituted; their tendency to produce riots and disorders was a main part of the charge, and was laid, in order to give the court jurisdiction chiefly against libels. The offence was new. Learning of their own upon the subject they had none; and they were obliged to resort to the only emporium where it was to be had, the Roman law. After the Star Chamber was abolished in the 10th of Charles I. its authority indeed ceased, but its maxims subsisted and survived it; and the spirit of the Star Chamber has transmigrated and lived again; and Westminster Hall was obliged to borrow from the Star Chamber for the same reasons as the Star Chamber had borrowed from the Roman forum, because they had no law, statute, or tradition of their own. Thus the Roman law took possession of our courts; I mean its doctrine, not its sanctions; the severity of capital punishment was omitted, all the rest remained. The grounds of these laws are just and equitable. Undoubtedly the good fame of every man ought to be under the protection of the laws, as well as his life, and liberty, and property. Good fame is an out-work that defends them all, and renders them all valuable. The law forbids you to revenge—when it ties up the hands of some, it ought to restrain the tongues of others. The good fame of government is the same; it ought not to be traduced. This is necessary in all government; and if opinion be support, what takes away this destroys that support; but the liberty of the press is necessary to this government.

The wisdom, however, of government, is of more importance than the laws. I should study the temper of the people before I ventured on actions of this kind. I would consider the whole of the prosecution of a libel of such importance as Junius, as one piece, as one consistent plan of operations; and I would contrive it so, that if I were defeated, I should not be disgraced; that even my victory should not be more ignominious than my defeat; I would so manage that the lowest in the predicament of guilt should not be the only one in punishment. I would not inform against the mere vender of a collection of pamphlets. I would not put him to trial first, if I could possibly avoid it. I would rather stand the consequences of my first error, than carry it to a judgment that must disgrace my prosecution or the court. We ought to examine these things

in a manner, which becomes ourselves, and becomes the object of the inquiry; not to examine into the most important consideration, which can come before us, with minds heated with prejudice and filled with passions, with vain popular opinions and humours; and when we propose to examine into the justice of others, to be unjust ourselves.

An inquiry is wished as the most effectual way of putting an end to the clamours and libels, which are the disorder and disgrace of the times. For people remain quiet, they sleep secure, when they imagine that the vigilant eye of a censorial magistrate watches over all the proceedings of judicature; and that the sacred fire of an eternal constitutional jealousy, which is the guardian of liberty, law, and justice, is alive night and day, and burning in this house. But when the magistrate gives up his office and his duty, the people assume it, and they inquire too much and too irreverently, because they think their representatives do not inquire at all.

We have in a libel, 1st. The writing. 2d. The communication, called by the lawyers the publication. 3d. The application to persons and facts. 4th. The intent and tendency. 5th. The matter—diminution of fame. The law-presumptions on all these are in the communication. No intent can make a defamatory publication good, nothing can make it have a good tendency; truth is not pleadable. Taken *juridically* the foundation of these law-presumptions is not unjust; taken *constitutionally* they are ruinous, and tend to the total suppression of all publication. If juries are confined to the fact, no writing, which censures, however justly, or however temperately, the conduct of administration, can be unpunished. Therefore, if the intent and tendency be left to the judge as legal conclusions growing from the fact, you may depend upon it you can have no public discussion of a public measure; which is a point, which even those who are most offended with the licentiousness of the press (and it is very exorbitant, very provoking) will hardly contend for.

So far as to the first opinion, that the doctrine is right and needs no alteration. 2d. The next is, that it is wrong, but that we are not in a condition to help it. I admit, it is true that there are cases of a nature so delicate and complicated, that an act of parliament on the subject may become a matter of great difficulty. It sometimes cannot define with exactness; because the subject matter will not bear an exact definition. It may seem to *take away* every thing which it does not positively *establish*, and this might be inconvenient; or it may seem vice versa to *establish* every thing which it does not *ex-*

pressly take away. It may be more advisable to leave such matters to the enlightened discretion of a judge, awed by a censorial house of commons. But then it rests upon those, who object to a legislative interposition, to prove these inconveniences in the particular case before them. For it would be a most dangerous, as it is a most idle and most groundless conceit, to assume as a general principle, that the rights and liberties of the subject are impaired by the care and attention of the legislature to secure them. If so, very ill had the purchase of magna charta have merited the deluge of blood, which was shed in order to have the body of English privileges defined by a positive written law. This charter, the inestimable monument of English freedom, so long the boast and glory of this nation, would have been at once an instrument of our servitude, and a monument of our folly, if this principle were true. The thirty-four confirmations would have been only so many repetitions of their absurdity, so many new links in the chain, and so many invalidations of their right.

You cannot open your statute book without seeing positive provisions relative to every right of the subject. This business of juries is the subject of not fewer than a dozen. To suppose that juries are something innate in the constitution of Great Britain, that they have jumped like Minerva out of the head of Jove in complete armour, is a weak fancy, supported neither by precedent nor by reason. Whatever is most antient and venerable in our constitution, royal prerogative, privileges of parliament, rights of elections, authority of courts, juries, must have been modelled according to the occasion. I spare your patience, and I pay a compliment to your understanding in not attempting to prove that any thing so elaborate and artificial as a jury was not the work of *chance*, but a matter of institution brought to its present state by the joint efforts of legislative authority and juridical prudence. It need not be ashamed of being (what in many parts of it at least it is) the offspring of an act of parliament, unless it is a shame for our laws to be the results of our legislature. Juries, which sensitively shrink from the rude touch of parliamentary remedy, have been the subject of not fewer than, I think, forty-three acts of parliament, in which they have been changed with all the authority of a creator over its creature, from magna charta to the great alterations which were made in the 29th of George IId.

To talk of this matter in any other way, is to turn a rational principle into an idle and vulgar superstition, like the antiquary, Dr. Woodward, who trembled to have his shield scoured

for fear it should be discovered to be no better than an old pot-lid. This species of tenderness to a jury puts me in mind of a gentleman of good condition, who had been reduced to great poverty and distress; application was made to some rich fellows in his neighbourhood to give him some assistance; but they begged to be excused for fear of affronting a person of his high birth; and so the poor gentleman was left to starve out of pure respect to the antiquity of his family. From this principle has arisen an opinion, that I find current amongst gentlemen, that this distemper ought to be left to cure itself; that the judges, having been well exposed, and something terrified on account of these clamours, will entirely change, if not very much relax from their rigour; if the present race should not change, that the chances of succession may put other more constitutional judges in their place; lastly, if neither should happen, yet that the spirit of an English jury will always be sufficient for the vindication of its own rights, and will not suffer itself to be overborne by the Bench. I confess that I totally dissent from all these opinions. These suppositions become the strongest reasons with me to evince the necessity of some clear and positive settlement of this question of contested jurisdiction. If judges are so full of levity, so full of timidity, if they are influenced by such mean and unworthy passions that a popular clamour is sufficient to shake the resolution they build upon the solid basis of a legal principle, I would endeavour to fix that mercury by a positive law. If to please an administration the judges can go one way to-day, and to please the crowd they can go another to-morrow; if they will oscillate backward and forward between power and popularity, it is high time to fix the law in such a manner as to resemble, as it ought, the great author of all law, in whom there is no variableness nor shadow of turning.

As to their succession, I have just the same opinion. I would not leave it to the chances of promotion, or to the characters of lawyers, what the law of the land, what the rights of juries, or what the liberty of the press should be. My law should not depend upon the fluctuation of the closet or the complexion of men. Whether a black-haired man or a fair-haired man presided in the court of king's bench, I would have the law the same; the same, whether he was born in *domo regnatrice*, and sucked from his infancy the milk of courts, or was nurtured in the rugged discipline of a popular opposition. This law of court cabal and of party, this *mens quædam nullo perturbata affectu*, this law of complexion ought not to be en-

dured for a moment, in a country whose being depends upon the certainty, clearness, and stability of institutions.

Now I come to the last substitute for the proposed bill, the spirit of juries operating their own jurisdiction. This I confess I think the worst of all, for the same reasons on which I objected to the others; and for other weighty reasons besides, which are separate and distinct. First, because juries, being taken at random out of a mass of men infinitely large, must be of characters as various as the body they arise from is large in its extent. If the judges differ in their complexions, much more will a jury. A timid jury will give way to an awful judge delivering oracularly the law, and charging them on their oaths, and putting it home to their consciences, to beware of judging where the law had given them no competence. We know that they will do so, they have done so in an hundred instances; a respectable member of your own house, no vulgar man, tells you that on the authority of a judge he found a man guilty, in whom, at the same time, he could find no guilt. But supposing them full of knowledge and full of manly confidence in themselves, how will their knowledge, or their confidence, inform or inspirit others? They give no reason for their verdict, they can but condemn or acquit; and no man can tell the motives on which they have acquitted or condemned. So that this hope of the power of juries to assert their own jurisdiction, must be a principle blind as being without reason, and as changeable as the complexion of men and the temper of the times.

But after all, is it fit that this dishonourable contention between the court and juries should subsist any longer? On what principle is it that a juror refuses to be directed by the court as to his *competence*? Whether a libel or no libel be a question of law or of fact, may be doubtful, but a question of jurisdiction and competence is certainly a question of law; on this the court ought undoubtedly to judge, and to judge solely and exclusively. If they judge wrong from excusable error, you ought to correct it, as to-day it is proposed, by an explanatory bill; or if by corruption, by bill of *penalties* declaratory and by punishment. What does a juror say to a judge when he refuses his opinion upon a question of judicature? You are so corrupt, that I should consider myself a partaker of your crime were I to be guided by your opinion; or you are so grossly ignorant that I, fresh from my hounds, from my plough, my counter or my loom, am fit to direct you in your own profession. This is an unfitting, it is a dangerous state of things. The spirit of any sort of men is not a fit *rule* for deciding on

the bounds of their jurisdiction. First, because it is different in different men, and even different in the same at different times; and can never become the proper directing line of law; next, because it is not reason, but feeling; and when once it is irritated, it is not apt to confine itself within its proper limits. If it becomes, not difference in opinion upon law, but a trial of spirit between parties, our courts of law are no longer the temple of justice, but the amphitheatre for gladiators. No, God forbid! juries ought to take their law from the bench only; but it is *our* business that they should hear nothing from the bench but what is agreeable to the principles of the constitution. The jury are to hear the judge, the judge is to hear the law where it speaks plain; where it does not, he is to hear the legislature. As I do not think these opinions of the judges to be agreeable to those principles, I wish to take the only method in which they can or ought to be corrected, by bill.

Next my opinion is, that it ought to be rather by a bill for removing controversies, than by a bill in the state of manifest and express declaration, and in words *de præterito*. I do this upon reasons of equity and constitutional policy. I do not want to censure the present judges. I think them to be excused for their error. Ignorance is no excuse for a judge; it is changing the nature of his crime; it is not absolving. It must be such error as a wise and conscientious judge may possibly fall into, and must arise from one or both these causes—1. A plausible principle of law. 2. The precedents of respectable authorities, and in good times. In the first, the principle of law, that the judge is to decide on law, the jury to decide on fact, is an antient and venerable principle and maxim of the law; and if supported in this application by precedents of good times and of good men, the judge, if wrong, ought to be corrected; he ought not to be reproved or to be disgraced, or the authority or respect to your tribunals to be impaired. In cases, in which declaratory bills have been made, where by violence and corruption some fundamental part of the constitution has been struck at; where they would damn the principle, censure the persons, and annul the acts—but where the law having been by the accident of human frailty depraved, or in a particular instance misunderstood, where you neither mean to rescind the acts nor to censure the persons, in such cases you have taken the explanatory mode, and without condemning what is done, you direct the future judgment of the court.

All bills for the reformation of the law must be according to the subject matter, the circumstances and the occasion, and are

of four kinds—1. Either the law is totally wanting, and then a new enacting statute must be made to supply that want. Or, 2. It is *defective*, then a new law must be made to enforce it. 3. Or it is opposed by power or fraud, and then an act must be made to declare it. 4. Or it is rendered doubtful and controverted, and then a law must be made to explain it. These must be applied according to the exigence of the case; one is just as good as another of them. Miserable indeed would be the resources, poor and unfurnished the stores and magazines of legislation, if we were bound up to a little narrow form, and not able to frame our acts of parliament according to every disposition of our own minds, and to every possible emergency of the commonwealth; to make them declaratory, enforcing, explanatory, repealing, just in what mode or in what degree we please.

Those who think that the judges living and dead are to be condemned; that your tribunals of justice are to be dishonoured; that their acts and judgments on this business are to be rescinded; they will undoubtedly vote against this bill, and for another sort.

I am not of the opinion of those gentlemen, who are against disturbing the public repose; I like a clamour whenever there is an abuse. The fire-bell at midnight disturbs your sleep, but it keeps you from being burned in your bed. The hue and cry alarms the county, but it preserves all the property of the province. All these clamours aim at *redress*. But a clamour made merely for the purpose of rendering the people discontented with their situation, without an endeavour to give them a practical remedy, is indeed one of the worst acts of sedition.

I have read and heard much upon the conduct of our courts in the business of libels. I was extremely willing to enter into, and very free to act as facts should turn out on that inquiry, aiming constantly at remedy as the end of all clamour, all debate, all writing, and all inquiry; for which reason I did embrace, and do now with joy, this method of giving quiet to the courts, jurisdiction to juries, liberty to the press, and satisfaction to the people. I thank my friends for what they have done; I hope the public will one day reap the benefit of their pious and judicious endeavours. They have now sown the seed; I hope they will live to see the flourishing harvest. Their bill is sown in weakness, it will, I trust, be reaped in power. And then, however, we shall have reason to apply to them what, my Lord Coke says, was an aphorism continually in the mouth of a great sage of the law, "Blessed be not the complaining tongue, but *blessed be the amending hand*."

A LETTER

*On Mr. Dowdeswell's Bill for explaining the Powers of Juries in Prosecutions for Libels.**

An improper and injurious account of the bill brought into the house of commons by Mr. Dowdeswell has lately appeared in one of the public papers. I am not at all surprised at it; as I am not a stranger to the views and politics of those who have caused it to be inserted.

Mr. Dowdeswell did *not bring in an enacting bill to give to juries*, as the account expresses it, *a power to try law and fact in matter of libel.* Mr. Dowdeswell brought in a bill to put an end to those doubts and controversies upon that subject, which have unhappily distracted our courts, to the great detriment of the public, and to the great dishonour of the national justice.

That it is the province of the jury, in informations and indictments for libels, to try nothing more than the fact of the composing and of the publishing averments and innuendoes, is a doctrine held at present by all the judges of the king's bench, probably by most of the judges of the kingdom. The same doctrine has been held pretty uniformly since the revolution; and it prevails more or less with the jury, according to the degree of respect with which they are disposed to receive the opinions of the bench.

This doctrine, which, when it prevails, tends to annihilate the benefit of trial by jury; and when it is rejected by juries, tends to weaken and disgrace the authority of the judge, is not a doctrine proper for an English judicature. For the sake both of judge and jury, the controversy ought to be quieted, and the law ought to be settled in a manner clear, definitive, and constitutional, by the only authority competent to it, the authority of the legislature.

Mr. Dowdeswell's bill was brought in for that purpose. It *gives* to the jury no *new* powers; but, after reciting the doubts and controversies, (which nobody denies actually to subsist) and after stating that, if juries are not reputed competent to

* The manuscript, from which this letter is taken, is in Mr. Burke's own handwriting, but it does not appear to whom it was addressed, nor is there any date affixed to it. It has been thought proper to insert it here as being connected with the subject of the foregoing speech.

try the whole matter, the benefit of trial by jury will be of none or imperfect effect; it enacts, not that the jury *shall* have the *power*, but that they shall be *held and reputed in law and right competent* to try the whole matter laid in the information. The bill is directing to the judges, concerning the opinion in law, which they are known to hold upon this subject; and does not in the least imply, that the jury were to derive a new right and power from that bill, if it should have passed into an act of parliament. The implication is directly the contrary; and is as strongly conveyed as it is possible for those to do, who state a doubt and controversy, without charging with criminality those persons, who so doubted, and so controverted.

Such a style is frequent in acts of this nature; and is that only, which is suited to the occasion. An insidious use has been made of the words *enact* and *declare*, as if they were formal and operative words of force to distinguish different species of laws producing different effects. Nothing is more groundless, and I am persuaded no lawyer will stand to such an assertion. The gentlemen, who say that a bill ought to have been brought in upon the principle, and in the style of the petition of right, and declaration of right, ought to consider, how far the circumstances are the same in the two cases; and how far they are prepared to go the whole lengths of the reason of those remarkable laws. Mr. Dowdeswell and his friends are of opinion, that the circumstances are not the same, and that therefore the bill ought not to be the same.

It has been always disagreeable to the persons, who compose that connection, to engage wantonly in a paper war; especially with gentlemen, for whom they have an esteem, and who seem to agree with them in the great grounds of their public conduct: but they can never consent to purchase any assistance from any persons by the forfeiture of their own reputation. They respect public opinion; and therefore whenever they shall be called upon, they are ready to meet their adversaries, as soon as they please, before the tribunal of the public, and there to justify the constitutional nature and tendency, the propriety, the prudence, and the policy of their bill. They are equally ready to explain and to justify all their proceedings in the conduct of it; equally ready to defend their resolution to make it one object (if ever they should have the power) in a plan of public reformation.

Your correspondent ought to have been satisfied with the assistance, which his friends have lent to administration in defeating that bill. He ought not to make a feeble endeavour (I dare say much to the displeasure of those friends) to disgrace

the gentleman who brought it in. A measure, proposed by Mr. Dowdeswell, seconded by Sir George Saville, and supported by their friends, will stand fair with the public, even though it should have been opposed by that list of names, (respectable names I admit) which have been printed with so much parade and ostentation in your papers.

It is not true, that Mr. Burke spoke in praise of Lord Mansfield. If he had found any thing in Lord Mansfield praiseworthy, I fancy he is not disposed to make an apology to any body for doing justice. Your correspondent's reason for asserting it is visible enough; and it is altogether in the strain of other misrepresentations. That gentleman spoke decently of the judges, and he did no more; most of the gentlemen, who debated on both sides, held the same language; and nobody will think their zeal the less warm, or the less effectual, because it is not attended with scurrility and virulence.

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LIBEL BILL.

WHEREAS doubts and controversies have arisen at various times, concerning the right of jurors to try the whole matter laid in indictments and informations for seditious and other libels: And whereas trial by juries would be of none or imperfect effect if the jurors were not held to be competent to try the whole matter aforesaid; For settling and clearing such doubts and controversies, and for securing to the subject the effectual and complete benefit of trial by juries in such indictments and informations: BE it enacted, &c. That jurors duly impannelled and sworn to try the issue between the king and the defendant, upon any indictment or information for a seditious libel, or a libel under any other denomination or description, shall be held and reputed competent to all intents and purposes, in law and in right, to try every part of the matter laid or charged in said indictment or information, comprehending the criminal intention of the defendant, and the evil tendency of the libel charged, as well as the mere fact of the publication thereof, and the application by innuendo of blanks, initial letters, pictures, and other devices; any opinion, question, ambiguity or doubt to the contrary notwithstanding.

SPEECH

*On the second reading of a Bill for the repeal of the Marriage Act.**

THIS act [*the marriage act*] stands upon *two* principles; one, that the power of marrying without consent of parents should not take place till twenty-one years of age; the other, that all marriages should be *public*.

The proposition of the honourable mover goes to the first; and undoubtedly his motives are fair and honourable; and even in that measure, by which he would take away paternal power, he is influenced to it by filial piety, and he is led into it by a natural and to him inevitable but real mistake, that the ordinary race of mankind advance as fast towards maturity of judgment and understanding as he does.

The question is not now, whether the law ought to acknowledge and protect such a state of life as minority; nor whether the continuance, which is fixed for that state, be not improperly prolonged in the law of England. Neither of these in general are questioned. The only question is, whether matrimony is to be taken out of the general rule, and whether the minors of both sexes, without the consent of their parents, ought to have a capacity of contracting the matrimonial, whilst they have not the capacity of contracting any other engagement. Now it appears to me very clear, that they ought not. It is a great mistake to think, that mere *animal* propagation is the sole end of matrimony. Matrimony is instituted not only for the propagation of men, but for their nutrition, their education, their establishment; and for the answering of all the purposes of a rational and moral being; and it is not the duty of the community to consider alone of how many, but how useful citizens it shall be composed.

It is most certain, that men are well qualified for propagation, long before they are sufficiently qualified even by bodily strength, much less by mental prudence, and by acquired skill in trades and professions, for the maintenance of a family. Therefore, to enable and authorize any man to introduce citizens into the commonwealth before a rational security can be

* This bill was brought into the house of commons by Mr. Fox, June 1, 1781; and rejected, on the second reading, without a division.

given that he may provide for them, and educate them as citizens ought to be provided for and educated, is totally incongruous with the whole order of society. Nay, it is fundamentally unjust; for a man that breeds a family without competent means of maintenance, incumbers other men with his children, and disables them so far from maintaining their own. The improvident marriage of one man becomes a tax upon the orderly and regular marriage of all the rest. Therefore those laws are wisely constituted, that give a man the use of all his faculties at one time; that they may be mutually subservient, aiding and assisting to each other: that the time of his completing his bodily strength, the time of mental discretion, the time of his having learned his trade, and the time at which he has the disposition of his fortune, should be likewise the time in which he is permitted to introduce citizens into the state, and to charge the community with their maintenance. To give a man a family during his apprenticeship, whilst his very labour belongs to another; to give him a family when you do not give him a fortune to maintain it; to give him a family before he can contract any one of those engagements, without which no business can be carried on, would be to burden the state with families without any security for their maintenance. When parents themselves marry their children, they become in some sort security to prevent the ill consequences. You have this security in parental consent; the state takes its security in the knowledge of human nature. Parents ordinarily consider little the passion of their children, and their present gratification. Don't fear the power of a father; it is kind to passion to give it time to cool. But their censures sometimes make me smile; sometimes, for I am very infirm, make me angry; *sæpe bilem, sæpe jocum movent.*

It gives me pain to differ on this occasion from many, if not most of those whom I honour and esteem. To suffer the grave animadversion and censorial rebuke of the honourable gentleman who made the motion; of him whose good nature and good sense the house look upon with a particular partiality; whose approbation would have been one of the highest objects of my ambition; this hurts me. It is said, the marriage act is aristocratic. I am accused, I am told abroad, of being a man of aristocratic principles. If by aristocracy they mean the peers, I have no vulgar admiration, nor any vulgar antipathy towards them; I hold their order in cold and decent respect. I hold them to be of an absolute necessity in the constitution, but I think they are only good when kept within their proper bounds. I trust, whenever there has been a dispute between

these houses, the part I have taken has not been equivocal. If by the aristocracy, which indeed comes nearer to the point, they mean an adherence to the rich and powerful against the poor and weak, this would indeed be a very extraordinary part. I have incurred the odium of gentlemen in this house for not paying sufficient regard to men of ample property. When, indeed the smallest rights of the poorest people in the kingdom are in question, I would set my face against any act of pride and power countenanced by the highest that are in it; and if it should come to the last extremity and to a contest of blood —God forbid! God forbid!—my part is taken; I would take my fate with the poor, and low, and feeble. But if these people came to turn their liberty into a cloak for maliciousness, and to seek a privilege of exemption, not from power, but from the rules of morality and virtuous discipline, then I would join my hand to make them feel the force, which a few, united in a good cause, have over a multitude of the profligate and ferocious.

I wish the nature of the ground of repeal were considered with a little attention. It is said the act tends to accumulate, to keep up the power of great families; and to add wealth to wealth. It may be that it does so. It is impossible that any principle of law or government useful to the community should be established without an advantage to those who have the greatest stake in the country. Even some vices arise from it. The same laws which secure property encourage avarice; and the fences made about honest acquisition are the strong bars which secure the hoards of the miser. The dignities of magistracy are encouragements to ambition, with all the black train of villanies, which attend that wicked passion. But still we must have laws to secure property; and still we must have ranks and distinctions, and magistracy in the state, notwithstanding their manifest tendency to encourage avarice and ambition.

By affirming the parental authority throughout the state, parents in high rank will generally aim at, and will sometimes have the means too, of preserving their minor children from any but wealthy or splendid matches. But this authority preserves from a thousand misfortunes, which embitter every part of every man's domestic life, and tear to pieces the dearest ties in human society.

I am no peer, nor like to be—but am in middle life, in the mass of citizens—yet I should feel for a son, who married a prostituted woman, or a daughter, who married a dishonourable and prostituted man, as much as any peer in the realm.

You are afraid of the avaricious principle of fathers. But observe that the avaricious principle is here mitigated very considerably. It is avarice by proxy; it is avarice not working by itself or for itself, but through the medium of parental affection, meaning to procure good to its offspring. But the contest is not between love and avarice.

While you would guard against the possible operation of this species of benevolent avarice, the avarice of the father, you let loose another species of avarice, that of the fortune-hunter, unmitigated, unqualified. To show the motives, who has heard of a man running away with a woman not worth sixpence? Do not call this by the name of the sweet and best passion—love. It is robbery, not a jot better than any other.

Would you suffer the sworn enemy of his family, his life and his honour, possibly the shame and scandal and blot of human society, to debauch from his care and protection the dearest pledge that he has on earth, the sole comfort of his declining years, almost in infantine imbecility; and with it to carry into the hands of his enemy and the disgrace of nature, the dear-earned substance of a careful and laborious life? Think of the daughter of an honest virtuous parent, allied to vice and infamy Think of the hopeful son tied for life by the meretricious arts of the refuse of mercenary and promiscuous lewdness. Have mercy on the youth of both sexes; protect them from their ignorance and inexperience; protect one part of life by the wisdom of another; protect them by the wisdom of laws and the care of nature.

SPEECH

*On a Motion for leave to bring in a Bill to quiet the Possessions of the Subject against dormant Claims of the Church.**

If I considered this bill as an attack upon the church, brought in for the purpose of impoverishing and weakening the clergy, I should be one of the foremost in an early and vigorous opposition to it.

I admit the same reasons do not press for limiting the claims of the church, that existed for limiting the crown, by that wisest of all laws, which has secured the property, the peace, and the freedom of this country from the most dangerous mode of attack, which could be made upon them all.

I am very sensible of the propriety of maintaining that venerable body with decency (and with more than mere decency.) I would maintain it according to the ranks wisely established in it, with that sober and temperate splendour, that is suitable to a sacred character invested with high dignity.

There ought to be a symmetry between all the parts and orders of a state. A *poor* clergy in an *opulent* nation can have little correspondence with the body it is to instruct, and it is a disgrace to the public sentiments of religion. Such irreligious frugality is even bad œconomy, as the little that is given is entirely thrown away. Such an impoverished and degraded clergy in quiet times could never execute their duty, and in time of disorder would infinitely aggravate the public confusions.

That the property of the church is a favoured and privileged property I readily admit. It is made with great wisdom, since a perpetual body with a perpetual duty ought to have a perpetual provision.

The question is not the property of the church, or its security. The question is, whether you will render the principle of prescription a principle of the law of this land, and incorporate it with the whole of your jurisprudence; whether, having given it first against the laity, then against the crown, you will now extend it to the church.

* This motion was made the 17th February, 1772, and rejected on a division; the numbers being, ayes 117, noes 141.

The acts which were made, giving limitation against the laity, were not acts against the property of those who might be precluded by limitations. The act of quiet against the crown was not against the interests of the crown, but against a power of vexation.

If the principle of prescription be not a constitution of positive law, but a principle of natural equity, then to hold it out against any man is not doing him injustice.

That *tythes* are due of common right; readily granted—and if this principle had been kept in its original straitness, it might indeed be supposed that to plead an exemption was to plead a long continued *fraud*, and that no man could *be deceived* in such a title; as the moment he bought land, he must know that he bought land tythed. Prescription could not aid him, for prescription can only attach on a supposed *bonâ fide* possession.

But the fact is, that the principle has been broken in upon.

Here it is necessary to distinguish two sorts of property—1. Land carries no *mark* on it to distinguish it as *ecclesiastical*, as tythes do, which are a *charge* on land; therefore, though it had been made *inalienable*, it ought perhaps to be subjected to limitation. It might *bonâ fide* be held.

But first it was not originally inalienable—no, not by the *canon law*, until the restraining act of the 11th of Elizabeth. But the great revolution of the dissolution of monasteries by the 31st H. ch. 13. has so mixed and confounded ecclesiastical with lay property, that a man may by every rule of good faith be possessed of it.

The statute of Queen Elizabeth, ann. 1. ch. 1. gave away the bishops' lands.

So far as to *lands*.

As to tythes; they are not things in their own nature subject to be barred by prescription upon the general principle. But tythes and church lands, by the statutes of Henry VIII. and the 11th Elizabeth have become objects *in commercio;* for by coming to the crown, they became grantable in that way to the subject, and a great part of the church lands passed through the crown to the people.

By passing to the king, tythes became property to a mixt party; by passing from the king, they became absolutely *lay* property; the partition-wall was broken down, and tythes and church possession became no longer synonymous terms. No man therefore might become a fair purchaser of tythes and of exemption from tythes.

By the statute of Elizabeth, the lands took the same course, (I will not inquire by what justice, good policy and decency)

but they passed into lay lands, became the object of purchases for valuable consideration, and of marriage settlements.

Now if tythes might come to a layman, land in the hands of a layman might be also tythe-free. So that there was an object, which a layman might become seised of equitably and *bonâ fide;* there was something, on which a prescription might attach, the end of which is to secure the natural well-meaning ignorance of men, and to secure property by the best of all principles, continuance.

I have therefore shown that a layman may be equitably seised of church lands—2. Of tythes—3. Of exemption from tythes; and you will not contend that there should be no prescription. Will you say that the alienations made before the 11th of Elizabeth shall not stand good?

I do not mean any thing against the church, her dignities, her honours, her privileges, or her possessions. I should wish even to enlarge them all; not that the church of England is incompetently endowed. This is to take nothing from her but the power of making herself odious. If she be secure herself, she can have no objection to the security of others. For I hope she is secure from lay bigotry and anti-priestcraft, for certainly such things there are. I heartily wish to see the church secure in such possessions as will not only enable her ministers to preach the gospel with ease, but of such a kind as will enable them to preach it with its full effect—so that the pastor shall not have the inauspicious appearance of a tax-gatherer;—such a maintenance as is compatible with the civil prosperity and improvement of their country.

HINTS

FOR

AN ESSAY ON THE DRAMA.*

It is generally observed that no species of writing is so difficult as the dramatic. It must indeed appear so, were we to consider it upon one side only. It is a dialogue or species of composition, which in itself requires all the mastery of a complete writer with grace and spirit to support. We may add, that it must have a fable too, which necessarily requires invention, one of the rarest qualities of the human mind. It would surprise us, if we were to examine the thing critically, how few good original stories there are in the world. The most celebrated borrow from each other, and are content with some new turn; some corrective, addition, or embellishment. Many of the most celebrated writers in that way can claim no other merit. I do not think La Fontaine has one original story. And if we pursue him to those who were his originals, the Italian writers of tales and novels, we shall find most even of them drawing from antiquity, or borrowing from the eastern world, or adopting and decorating the little popular stories they found current and traditionary in their country. Sometimes they laid the foundation of their tale in real fact. Even after all their borrowing from so many funds, they are still far from opulent. How few stories has Boccace which are tolerable, and how much fewer are there which you would desire to read twice. But this general difficulty is greatly increased when we come to the drama. Here a fable is essential; a fable, which is to be conducted with rapidity, clearness, consistency and surprise, without any, or certainly with very little, aid from narrative. This is the reason that, generally, nothing is more dull in telling than the plot of a play. It is seldom or never a good story in itself; and in this particular some of the greatest

* These hints appear to have been first thoughts, which were probably intended to be amplified and connected; and so worked up into a regular dissertation. No date appears of the time when they were written, but it was probably before the year 1765.

AN

ESSAY

TOWARDS

AN ABRIDGMENT

OF

THE ENGLISH HISTORY.

IN THREE BOOKS.

AN

ABRIDGMENT

OF

ENGLISH HISTORY.

BOOK I.

CHAP. I.

Causes of the Connection between the Romans and Britains.—Cæsar's two Invasions of Britain.

CHAP. I.

In order to obtain a clear notion of the state of Europe before the universal prevalence of the Roman power, the whole region is to be divided into two principal parts; which we shall call northern and southern Europe. The northern part is every where separated from the southern by immense and continued chains of mountains. From Greece it is divided by Mount Hæmus; from Spain by the Pyrenees; from Italy by the Alps. This division is not made by an arbitrary or casual distribution of countries. The limits are marked out by nature; and in these early ages were yet further distinguished by a considerable difference in the manners and usages of the nations they divided. If we turn our eyes to the northward of these boundaries, a vast mass of solid continent lies before us, stretched out from the remotest shore of Tartary quite to the Atlantic Ocean. A line drawn through this extent, from east to west, would pass over the greatest body of unbroken land, that is any where known upon the globe. This tract, in a course of some degrees to the northward, is not interrupted by any sea; neither are the mountains so disposed as to form any considerable obstacle to hostile incursions. Originally it was all inhabited but by one sort of people, known by

BOOK I. one common denomination of Scythians. As the several tribes of this comprehensive name lay, in many parts, greatly exposed, and as by their situation and customs they were much inclined to attack, and by both ill qualified for defence, throughout the whole of that immense region, there was for many ages a perpetual flux and reflux of barbarous nations. None of their commonwealths continued long enough established on any particular spot to settle, and to subside into a regular order; one tribe continually overpowering or thrusting out another. But as these were only the mixtures of Scythians with Scythians, the triumphs of barbarians over barbarians, there were revolutions in empire, but none in manners. The northern Europe, until some parts of it were subdued by the progress of the Roman arms, remained almost equally covered with all the ruggedness of primitive barbarism.

The southern part was differently circumstanced. Divided, as we have said, from the northern by great mountains, it is further divided within itself by considerable seas. Spain, Greece, and Italy are peninsulas. By these advantages of situation the inhabitants were preserved from those great and sudden revolutions to which the northern world had been always liable. And being confined within a space comparatively narrow, they were restrained from wandering into a pastoral and unsettled life. It was upon one side only that they could be invaded by land. Whoever made an attempt on any other part, must necessarily have arrived in ships of some magnitude; and must therefore have, in a degree, been cultivated, if not by the liberal, at least by the mechanic arts. In fact, the principal colonies, which we find these countries to have received, were sent from Phœnicia, or the Lesser Asia, or Egypt, the great fountains of the ancient civility and learning. And they became more or less, earlier or later polished, as they were situated nearer to or farther from these celebrated sources. Though I am satisfied from a comparison of the Celtic tongues with the Greek and Roman, that the original inhabitants of Italy and Greece were of the same race with the people of northern Europe, yet it is certain, they profited so much by their guarded situation, by the mildness of their climate favourable to humanity, and by the foreign infusions, that they came greatly to excel the northern nations in every respect,

and particularly in the art and discipline of war. For not being so strong in their bodies, partly from the temperature of their climate, partly from a degree of softness induced by a more cultivated life, they applied themselves to remove the few inconveniences of a settled society, by the advantages, which it affords in art, disposition, and obedience. And as they consisted of many small states, their people were well exercised in arms, and sharpened against each other by continual war.

Such was the situation of Greece and Italy from a very remote period. The Gauls and other northern nations, envious of their wealth, and despising the effeminacy of their manners, often invaded them with numerous, though ill-formed armies. But their greatest and most frequent attempts were against Italy; their connexion with which country alone we shall here consider. In the course of these wars, the superiority of the Roman discipline over the Gallic ferocity was at length demonstrated. The Gauls, notwithstanding the numbers with which their irruptions were made, and the impetuous courage by which that nation was distinguished, had no permanent success. They were altogether unskilful either in improving their victories, or repairing their defeats. But the Romans, being governed by a most wise order of men, perfected by a traditionary experience in the policy of conquest, drew some advantage from every turn of fortune; and, victorious or vanquished, persisted in one uniform and comprehensive plan of breaking to pieces every thing which endangered their safety or obstructed their greatness. For after having more than once expelled the northern invaders out of Italy, they pursued them over the Alps; and carrying the war into the country of their enemy, under several able generals, and at last under Caius Cæsar, they reduced all the Gauls from the Mediterranean sea to the Rhine and the ocean. During the progress of this decisive war, some of the maritime nations of Gaul had recourse for assistance to the neighbouring island of Britain. From thence they received considerable succours: by which means this island first came to be known with any exactness by the Romans; and first drew upon it the attention of that victorious people.

Though Cæsar had reduced Gaul, he perceived clearly, that a great deal was still wanting to make his con-

BOOK I. quest secure and lasting. That extensive country, inhabited by a multitude of populous and fierce nations, had been rather overrun than conquered. The Gauls were not yet broken to the yoke, which they bore with murmuring and discontent. The ruins of their own strength were still considerable; and they had hopes that the Germans, famous for their invincible courage, and their ardent love of liberty, would be at hand powerfully to second any endeavours for the recovery of their freedom; they trusted, that the Britains, of their own blood, allied in manners and religion, and whose help they had lately experienced, would not then be wanting to the same cause. Cæsar was not ignorant of these dispositions. He therefore judged, that, if he could confine the attention of the Germans and Britains to their own defence, so that the Gauls, on which side soever they turned, should meet nothing but the Roman arms, they must soon be deprived of all hope, and compelled to seek their safety in an entire submission.

These were the public reasons which made the invasion of Britain and Germany an undertaking at that particular time not unworthy a wise and able general. But these enterprises, though reasonable in themselves, were only subservient to purposes of more importance, and which he had more at heart. Whatever measures he thought proper to pursue on the side of Germany, or on that of Britain, it was towards Rome that he always looked, and to the furtherance of his interest there, that all his motions were really directed. That republic had receded from many of those maxims, by which her freedom had been hitherto preserved under the weight of so vast an empire. Rome now contained many citizens of immense wealth, eloquence and ability. Particular men were more considered than the republic; and the fortune and genius of the Roman people, which formerly had been thought equal to every thing, came now to be less relied upon, than the abilities of a few popular men. The war with the Gauls, as the old, and most dangerous enemy of Rome, was of the last importance; and Cæsar had the address to obtain the conduct of it for a term of years, contrary to one of the most established principles of their government. But this war was finished before that term was expired, and before the designs, which he entertained against the liberty of his country, were fully ripened. It was therefore necessary to find some pre-

text for keeping his army on foot; it was necessary to employ them in some enterprise, that might at once raise his character, keep his interest alive at Rome, endear him to his troops, and by that means weaken the ties which held them to their country.

From this motive, coloured by reasons plausible and fit to be avowed, he resolved in one and the same year, and even when that was almost expired, upon two expeditions; the objects of which lay at a great distance from each other, and were as yet untouched by the Roman arms. And first he resolved to pass the Rhine, and penetrate into Germany.

Cæsar spent but twenty-eight days in his German expedition. In ten he built his admirable bridge across the Rhine. In eighteen he performed all he proposed by entering that country. When the Germans saw the barrier of their river so easily overcome, and nature herself, as it were, submitted to the yoke, they were struck with astonishment; and never after ventured to oppose the Romans in the field. The most obnoxious of the German countries were ravaged; the strong awed; the weak taken into protection. Thus an alliance being formed, always the first step of the Roman policy, and not only a pretence but a means being thereby acquired of entering the country upon any future occasion, he marched back through Gaul to execute a design of much the same nature and extent in Britain.

The inhabitants of that island, who were divided into a great number of petty nations under a very coarse and disorderly frame of government, did not find it easy to plan any effectual measures for their defence. In order, however, to gain time in this exigency, they sent ambassadors to Cæsar with terms of submission. Cæsar could not colourably reject their offers. But as their submission rather clashed than coincided with his real designs, he still persisted in his resolution of passing over into Britain; and accordingly embarked with the infantry of two legions at the port of Itium.* His landing was obstinately disputed by the natives, and brought on a very hot and doubtful engagement. But the superior dispositions of so accomplished a commander, the resources of the Roman discipline, and the effect of the military engines on the unpractised minds of a barbarous

* Some think this port to be Witsand, others Bologne.

BOOK I. people, prevailed at length over the best resistance which could be made by rude numbers and mere bravery. The place where the Romans first entered this island was some where near Deal; and the time fifty-five years before the birth of Christ.

The Britains, who defended their country with so much resolution in the engagement, immediately after it lost all their spirit. They had laid no regular plan for their defence. Upon their first failure they seemed to have no resources left. On the slightest loss they betook themselves to treaty and submission; upon the least appearance in their favour, they were as ready to resume their arms, without any regard to their former engagements; a conduct which demonstrates, that our British ancestors had no regular polity, with a standing coercive power. The ambassadors, which they sent to Cæsar, laid all the blame of a war, carried on by great armies, upon the rashness of their young men; and they declared that the ruling people had no share in these hostilities. This is exactly the excuse which the savages of America, who have no regular government, make at this day upon the like occasions; but it would be a strange apology from one of the modern states of Europe, that had employed armies against another. Cæsar reprimanded them for the inconstancy of their behaviour; and ordered them to bring hostages to secure their fidelity, together with provisions for his army. But whilst the Britains were engaged in the treaty, and on that account had free access to the Roman camp, they easily observed that the army of the invaders was neither numerous nor well provided; and having about the same time received intelligence, that the Roman fleet had suffered in a storm, they again changed their measures, and came to a resolution of renewing the war. Some prosperous actions against the Roman foraging parties inspired them with great confidence. They were betrayed by their success into a general action in the open field. Here the disciplined troops obtained an easy and compleat victory; and the Britains were taught the error of their conduct at the expense of a terrible slaughter.

Twice defeated, they had recourse once more to submission. Cæsar, who found the winter approaching, provisions scarce, and his fleet not fit to contend with

that rough and tempestuous sea in a winter voyage, hearkened to their proposals, exacting double the number of the former hostages. He then set sail with his whole army.

In this first expedition into Britain, Cæsar did not make, nor indeed could he expect, any considerable advantage. He acquired a knowledge of the sea coast, and of the country contiguous to it; and he became acquainted with the force, the manner of fighting, and the military character of the people. To compass these purposes, he did not think a part of the summer ill bestowed. But early in the next he prepared to make a more effective use of the experience he had gained. He embarked again at the same port, but with a more numerous army. The Britains on their part had prepared more regularly for their defence in this, than the former year. Several of those states, which were nearest and most exposed to the danger, had, during Cæsar's absence, combined for their common safety; and chosen Cassibelan, a chief of power and reputation, for the leader of their union. They seemed resolved to dispute the landing of the Romans with their former intrepidity. But when they beheld the sea covered, as far as the eye could reach, with the multitude of the enemy's ships, (for they were eight hundred sail,) they despaired of defending the coast; they retired into woods and fastnesses; and Cæsar landed his army without opposition.

The Britains now saw the necessity of altering their former method of war. They no longer, therefore, opposed the Romans in the open field; they formed frequent ambuscades; they divided themselves into light flying parties; and continually harrassed the enemy on his march. This plan, though in their circumstances the most judicious, was attended with no great success. Cæsar forced some of their strongest intrenchments; and then carried the war directly into the territories of Cassibelan.

The only fordable passage, which he could find over the Thames, was defended by a row of palisadoes, which lined the opposite bank; another row of sharpened stakes stood under water along the middle of the stream. Some remains of these works long subsisted; and were to be discerned in the river* down almost to the present times. The Britains had made the best of the situation; but the

* Coway stakes, near Kingston on Thames.

BOOK I. Romans plunged into the water, tore away the stakes and palisadoes, and obtained a complete victory. The capital, or rather chief fastness, of Cassibelan was then taken, with a number of cattle, the wealth of this barbarous city. After these misfortunes, the Britains were no longer in a condition to act with effect. Their ill success in the field soon dissolved the ill cemented union of their councils. They split into factions, and some of them chose the common enemy for their protector. Insomuch that, after some feeble and desultory efforts, most of the tribes to the southward of the Thames submitted themselves to the conqueror. Cassibelan, worsted in so many encounters, and deserted by his allies, was driven at length to sue for peace. A tribute was imposed. And, as the summer began to wear away, Cæsar, having finished the war to his satisfaction, embarked for Gaul.

The whole of Cæsar's conduct in these two campaigns sufficiently demonstrates, that he had no intention of making an absolute conquest of any part of Britain. Is it to be believed, that, if he had formed such a design, he would have left Britain without an army, without a legion, without a single cohort to secure his conquest; and that he should sit down contented with an empty glory, and the tribute of an indigent people, without any proper means of securing a continuance of that small acquisition? This is not credible. But his conduct here, as well as in Germany, discovers his purpose in both expeditions; for by them he confirmed the Roman dominion in Gaul; he gained time to mature his designs, and he afforded his party in Rome an opportunity of promoting his interest, and exaggerating his exploits, which they did in such a manner, as to draw from the senate a decree, for a very remarkable acknowledgment of his services, in a supplication or thanksgiving of twenty days. This attempt, not being pursued, stands single, and has little or no connexion with the subsequent events.

Therefore I shall, in this place, where the narrative will be the least broken, insert from the best authorities which are left, and the best conjectures which, in so obscure a matter, I am able to form, some account of the first peopling of this island; the manners of its inhabitants; their art of war; their religious and civil discipline. These are matters not only worthy of attention, as containing a very remarkable piece of antiquity; but as not wholly unnecessary towards comprehending the

great change made in all these points, when the Roman conquest came afterwards to be completed. CHAP. II.

CHAP. II.

Some Account of the Ancient Inhabitants of Britain.

That Britain was first peopled from Gaul, we are assured by the best proofs; proximity of situation, and resemblance in language and manners. Of the time in which this event happened, we must be contented to remain in ignorance, for we have no monuments. But we may conclude that it was a very ancient settlement, since the Carthaginians found this island inhabited, when they traded hither for tin; as the Phœnicians, whose tracks they followed in this commerce, are said to have done long before them. It is true, that when we consider the short interval between the universal deluge and that period, and compare it with the first settlement of men at such a distance from this corner of the world, it may seem not easy to reconcile such a claim to antiquity with the only authentic account we have of the origin and progress of mankind; especially, as in those early ages the whole face of nature was extremely rude and uncultivated; when the links of commerce, even in the countries first settled, were few and weak; navigation imperfect; geography unknown; and the hardships of travelling excessive. But the spirit of migration, of which we have now only some faint ideas, was then strong and universal; and it fully compensated all these disadvantages. Many writers, indeed, imagine that these migrations, so common in the primitive times, were caused by the prodigious increase of people beyond what their several territories could maintain. But this opinion, far from being supported, is rather contradicted by the general appearance of things in that early time, when in every country vast tracts of land were suffered to lie almost useless in morasses and forests. Nor is it, indeed, more countenanced by the ancient modes of life, no way favourable to population. I apprehend that these first settled countries, so far from being over-stocked with inhabitants, were rather thinly peopled; and that the same causes, which occasioned that thinness, occasioned also

BOOK I. those frequent migrations, which make so large a part of the first history of almost all nations. For, in these ages, men subsisted chiefly by pasturage or hunting. These are occupations which spread the people, without multiplying them in proportion; they teach them an extensive knowledge of the country; they carry them frequently, and far from their homes, and weaken those ties which might attach them to any particular habitation.

It was in a great degree, from this manner of life, that mankind became scattered in the earliest times over the whole globe. But their peaceful occupations did not contribute so much to that end, as their wars; which were not the less frequent and violent, because the people were few, and the interests for which they contended of but small importance. Ancient history has furnished us with many instances of whole nations, expelled by invasion, falling in upon others, which they have entirely overwhelmed; more irresistible in their defeat and ruin, than in their fullest prosperity. The rights of war were then exercised with great inhumanity. A cruel death, or a servitude scarcely less cruel, was the certain fate of all conquered people; the terror of which hurried men from habitations, to which they were but little attached, to seek security and repose under any climate, that, however in other respects undesirable, might afford them refuge from the fury of their enemies. Thus the bleak and barren regions of the north, not being peopled by choice, were peopled as early, in all probability, as many of the milder and more inviting climates of the southern world; and thus, by a wonderful disposition of the Divine Providence, a life of hunting, which does not contribute to increase, and war, which is the great instrument in the destruction of men, were the two principal causes of their being spread so early and so universally over the whole earth. From what is very commonly known of the state of North America, it need not be said how often and to what distance several of the nations on that continent are used to migrate; who, though thinly scattered, occupy an immense extent of country. Nor are the causes of it less obvious; their hunting life, and their inhuman wars.

Such migrations, sometimes by choice, more frequently from necessity, were common in the ancient world. Frequent necessities introduced a fashion, which subsisted after the original causes. For how could it happen,

but from some universally established public prejudice, which always overrules and stifles the private sense of men, that a whole nation should deliberately think it a wise measure to quit their country in a body, that they might obtain in a foreign land a settlement, which must wholly depend upon the chance of war? Yet this resolution was taken and actually pursued by the entire nation of the Helvetii, as it is minutely related by Cæsar. The method of reasoning, which led them to it, must appear to us at this day utterly inconceivable; they were far from being compelled to this extraordinary migration by any want of subsistence at home; for it appears, that they raised without difficulty as much corn in one year, as supported them for two: they could not complain of the barrenness of such a soil.

This spirit of migration, which grew out of the ancient manners and necessities, and sometimes operated like a blind instinct, such as actuates birds of passage, is very sufficient to account for the early habitation of the remotest parts of the earth; and in some sort also justifies that claim, which has been so fondly made by almost all nations to great antiquity.

Gaul, from whence Britain was originally peopled, consisted of three nations; the Belgæ towards the north; the Celtæ in the middle countries; and the Aquitani to the south. Britain appears to have received its people only from the two former. From the Celtæ were derived the most ancient tribes of the Britains, of which the most considerable were called Brigantes. The Belgæ, who did not even settle in Gaul until after Britain had been peopled by colonies from the former, forcibly drove the Brigantes into the inland countries, and possessed the greatest part of the coast, especially to the south and west. These latter, as they entered the island in a more improved age, brought with them the knowledge and practice of agriculture; which however only prevailed in their own countries; the Brigantes still continued their ancient way of life, by pasturage and hunting. In this respect alone they differed; so that what we shall say in treating of their manners is equally applicable to both. And though the Britains were further divided into an innumerable multitude of lesser tribes and nations, yet all being the branches of these two stocks, it is not to our purpose to consider them more minutely.

BOOK I. Britain was, in the time of Julius Cæsar, what it is at this day in climate and natural advantages; temperate, and reasonably fertile. But destitute of all those improvements, which in a succession of ages it has received from ingenuity, from commerce, from riches and luxury, it then wore a very rough and savage appearance. The country, forest, or marsh; the habitations, cottages; the cities, hiding places in woods; the people naked, or only covered with skins; their sole employment, pasturage and hunting. They painted their bodies for ornament or terror, by a custom general amongst all savage nations; who being passionately fond of show and finery, and having no object but their naked bodies, on which to exercise this disposition, have in all times painted or cut their skins, according to their ideas of ornament. They shaved the beard on the chin; that on the upper lip was suffered to remain, and grow to an extraordinary length, to favour the martial appearance, in which they placed their glory. They were in their natural temper not unlike the Gauls; impatient, fiery, inconstant, ostentatious, boastful, fond of novelty; and, like all barbarians, fierce, treacherous and cruel. Their arms were short javelins, small shields of a slight texture, and great cutting swords with a blunt point, after the Gaulish fashion.

Their chiefs went to battle in chariots, not unartfully contrived, nor unskilfully managed. I cannot help thinking it something extraordinary, and not easily to be accounted for, that the Britains should have been so expert in the fabric of those chariots, when they seem utterly ignorant in all other mechanic arts: but thus it is delivered to us. They had also horse, though of no great reputation, in their armies. Their foot was without heavy armour; it was no firm body; nor instructed to preserve their ranks, to make their evolutions, or to obey their commanders: but in tolerating hardships; in dexterity of forming ambuscades (the art military of savages) they are said to have excelled. A natural ferocity, and an impetuous onset, stood them in the place of discipline.

It is very difficult, at this distance of time, and with so little information, to discern clearly what sort of civil government prevailed among the ancient Britains. In all very uncultivated countries, as society is not close nor intricate, nor property very valuable, liberty sub-

sists with few restraints. The natural equality of mankind appears, and is asserted: and therefore there are but obscure lines of any form of government. In every society of this sort, the natural connexions are the same as in others, though the political ties are weak. Among such barbarians, therefore, though there is little authority in the magistrate, there is often great power lodged, or rather left in the father: for as among the Gauls, so among the Britains, he had the power of life and death in his own family, over his children and his servants.

But among freemen and heads of families, causes of all sorts seem to have been decided by the Druids: they summoned and dissolved all the public assemblies; they alone had the power of capital punishments; and, indeed, seem to have had the sole execution and interpretation of whatever laws subsisted among this people. In this respect the Celtic nations did not greatly differ from others, except that we view them in an earlier stage of society. Justice was in all countries originally administered by the priesthood; nor indeed could laws in their first feeble state have either authority or sanction, so as to compel men to relinquish their natural independence, had they not appeared to come down to them enforced by beings of more than human power. The first openings of civility have been every where made by religion: amongst the Romans, the custody and interpretation of the laws continued solely in the college of the pontiffs for above a century.*

The time in which the Druid priesthood was instituted is unknown. It probably rose, like other institutions of that kind, from low and obscure beginnings; and acquired from time, and the labours of able men, a form, by which it extended itself so far, and attained at length so mighty an influence over the minds of a fierce and otherwise ungovernable people. Of the place where it arose, there is somewhat less doubt: Cæsar mentions it as the common opinion, that this institution began in Britain; that there it always remained in the highest perfection, and that from thence it diffused itself into Gaul. I own I find it not easy to assign any tolerable cause, why an order of so much authority, and a discipline so exact, should have passed from the more barbarous people to the more civilized; from the younger to the older;

* Digest. lib. I. tit. ii. De origine et processu juris, 2.

BOOK I. from the colony to the mother country: but it is not wonderful, that the early extinction of this order, and that general contempt in which the Romans held all the barbarous nations, should have left these matters obscure and full of difficulty.

The Druids were kept entirely distinct from the body of the people; and they were exempted from all the inferior and burthensome offices of society, that they might be at leisure to attend the important duties of their own charge. They were chosen out of the best families, and from the young men of the most promising talents; a regulation which placed and preserved them in a respectable light with the world. None were admitted into this order, but after a long and laborious noviciate, which made the character venerable in their own eyes, by the time and difficulty of attaining it. They were much devoted to solitude, and thereby acquired that abstracted and thoughtful air, which is so imposing upon the vulgar. And when they appeared in public, it was seldom, and only on some great occasion; in the sacrifices of the gods; or on the seat of judgment. They prescribed medicine; they formed the youth; they paid the last honours to the dead; they foretold events; they exercised themselves in magic. They were, at once, the priests, law-givers, and physicians of their nation; and consequently concentered in themselves all that respect, that men have diffusively for those who heal their diseases, protect their property, or reconcile them to the divinity. What contributed not a little to the stability and power of this order, was the extent of its foundation, and the regularity and proportion of its structure. It took in both sexes; and the female Druids were in no less esteem for their knowledge and sanctity than the males. It was divided into several subordinate ranks and classes; and they all depended upon a chief or Arch-Druid, who was elected to his place with great authority and pre-eminence for life. They were further armed with a power of interdicting from their sacrifices, or excommunicating any obnoxious persons. This interdiction, so similar to that used by the ancient Athenians, and to that since practised among christians, was followed by an exclusion from all the benefits of civil community; and it was accordingly the most dreaded of all punishments. This ample authority was in general usefully exerted; by the interposition of the Dru-

ids differences were composed, and wars ended; and the minds of the fierce northern people, being reconciled to each other under the influence of religion, united with signal effect against their common enemies. CHAP. II.

There was a class of the Druids, whom they called Bards, who delivered in songs (their only history) the exploits of their heroes; and who composed those verses which contained the secrets of druidical discipline; their principles of natural philosophy and moral; their astronomy; and the mystical rites of their religion. These verses, in all probability, bore a near resemblance to the golden verses of Pythagoras; to those of Phocyllides, Orpheus, and other remnants of the most ancient Greek poets. The Druids, even in Gaul, where they were not altogether ignorant of the use of letters, in order to preserve their knowledge in greater respect, committed none of their precepts to writing. The proficiency of their pupils was estimated principally by the number of technical verses, which they retained in their memory: a circumstance, that shows this discipline rather calculated to preserve with accuracy a few plain maxims of traditionary science, than to improve and extend it. And this is not the sole circumstance, which leads us to believe, that among them learning had advanced no further than its infancy.

The scholars of the Druids, like those of Pythagoras, were carefully enjoined a long and religious silence: for if barbarians come to acquire any knowledge, it is rather by instruction, than examination; they must therefore be silent. Pythagoras, in the rude times of Greece, required silence in his disciples; but Socrates, in the meridian of the Athenian refinement, spoke less than his scholars; every thing was disputed in the academy.

The Druids are said to be very expert in astronomy, in geography, and in all parts of mathematical knowledge. And authors speak, in a very exaggerated strain, of their excellence in these, and in many other sciences. Some elemental knowledge I suppose they had; but I can scarcely be persuaded, that their learning was either deep or extensive. In all countries where druidism was professed, the youth was generally instructed by that order; and yet was there little either in the manners of the people, in their way of life, or their works of art, that demonstrates profound science, or particularly mathematical skill. Britain, where their discipline was in its highest

perfection, and which was therefore resorted to by the people of Gaul, as an oracle in druidical questions, was more barbarous in all other respects than Gaul itself, or than any other country then known in Europe. Those piles of rude magnificence, Stonehenge and Abury, are in vain produced in proof of their mathematical abilities. These vast structures have nothing which can be admired, but the greatness of the work; and they are not the only instances of the great things, which the mere labour of many hands united, and persevering in their purpose, may accomplish with very little help from mechanics. This may be evinced by the immense buildings, and the low state of the sciences among the original Peruvians.

The Druids were eminent above all the philosophic lawgivers of antiquity, for their care in impressing the doctrine of the soul's immortality on the minds of their people, as an operative and leading principle. This doctrine was inculcated on the scheme of transmigration, which some imagine them to have derived from Pythagoras. But it is by no means necessary to resort to any particular teacher for an opinion, which owes its birth to the weak struggles of unenlightened reason, and to mistakes natural to the human mind. The idea of the soul's immortality is indeed ancient, universal, and, in a manner, inherent in our nature: but it is not easy for a rude people to conceive any other mode of existence, than one similar to what they had experienced in life; nor any other world, as the scene of such an existence, but this we inhabit, beyond the bounds of which the mind extends itself with great difficulty. Admiration, indeed, was able to exalt to heaven a few selected heroes: it did not seem absurd, that these, who in their mortal state had distinguished themselves as superior and over-ruling spirits, should after death ascend to that sphere, which influences and governs every thing below; or that the proper abode of beings, at once so illustrious and permanent, should be in that part of nature, in which they had always observed the greatest splendour and the least mutation. But on ordinary occasions it was natural some should imagine, that the dead retired into a remote country, separated from the living by seas or mountains. It was natural that some should follow their imagination with a simplicity still purer, and pursue the souls of men no further than the sepulchres, in which their bodies had

been deposited;* whilst others of deeper penetration, observing that bodies, worn out by age, or destroyed by accident, still afforded the materials for generating new ones, concluded likewise, that a soul being dislodged did not wholly perish, but was destined, by a similar revolution in nature, to act again, and to animate some other body. This last principle gave rise to the doctrine of transmigration; but we must not presume of course, that where it prevailed it necessarily excluded the other opinions; for it is not remote from the usual procedure of the human mind, blending, in obscure matters, imagination and reasoning together, to unite ideas the most inconsistent. When Homer represents the ghosts of his heroes appearing at the sacrifices of Ulysses, he supposes them endued with life, sensation, and a capacity of moving, but he has joined to these powers of living existence, uncomeliness, want of strength, want of distinction, the characteristics of a dead carcass. This is what the mind is apt to do; it is very apt to confound the ideas of the surviving soul and the dead body. The vulgar have always, and still do confound these very irreconcilable ideas. They lay the scene of apparitions in church-yards; they habit the ghost in a shroud; and it appears in all the ghastly paleness of a corpse. A contradiction of this kind has given rise to a doubt, whether the Druids did in reality hold the doctrine of transmigration. There is positive testimony that they did hold it. There is also testimony as positive, that they buried or burned with the dead, utensils, arms, slaves, and whatever might be judged useful to them, as if they were to be removed into a separate state. They might have held both these opinions; and we ought not to be surprised to find error inconsistent.

The objects of the druid worship were many. In this respect they did not differ from other heathens; but it must be owned, that in general, their ideas of divine matters were more exalted than those of the Greeks and Romans; and that they did not fall into an idolatry so coarse and vulgar. That their gods should be represented under a human form, they thought derogatory to beings uncreated and imperishable. To confine, what can endure no limits, within walls and roofs, they judged absurd and impious. In these particulars, there was some-

* Cic. Tusc. Quest. lib. 1.

thing refined, and suitable enough to a just idea of the divinity. But the rest was not equal. Some notions they had, like the greatest part of mankind, of a being eternal and infinite; but they also, like the greatest part of mankind, paid their worship to inferior objects, from the nature of ignorance and superstition always tending downwards.

The first and chief objects of their worship were the elements; and of the elements, fire; as the most pure, active, penetrating, and what gives life and energy to all the rest. Among fires, the preference was given to the sun, as the most glorious visible being, and the fountain of all life. Next they venerated the moon, and the planets. After fire, water was held in reverence. This, when pure, and ritually prepared, was supposed to wash away all sins, and to qualify the priest to approach the altar of the gods with more acceptable prayers; washing with water, being a type natural enough of inward cleansing and purity of mind. They also worshipped fountains, and lakes, and rivers.

Oaks were regarded by this sect with a particular veneration, as by their greatness, their shade, their stability, and duration, not ill representing the perfections of the deity. From the great reverence in which they held this tree, it is thought their name of druids is derived, the word deru, in the Celtic language, signifying an oak. But their reverence was not wholly confined to this tree. All forests were held sacred; and many particular plants were respected, as endued with a particular holiness. No plant was more revered than the misletoe; especially if it grew on the oak; not only because it is rarely found upon that tree, but because the oak was among the druids peculiarly sacred. Towards the end of the year, they searched for this plant, and when it was found, great rejoicing ensued; it was approached with reverence; it was cut with a golden hook; it was not suffered to fall to the ground, but received with great care and solemnity upon a white garment.

In ancient times, and in all countries, the profession of physic was annexed to the priesthood. Men imagined, that all their diseases were inflicted by the immediate displeasure of the deity, and therefore concluded, that the remedy would most probably proceed from those who were particularly employed in his service. Whatever, for the same reason, was found of efficacy to avert

or cure distempers, was considered as partaking somewhat of the divinity. Medicine was always joined with magic; no remedy was administered without mysterious ceremony and incantation. The use of plants and herbs, both in medicinal and magical practices, was early and general. The misletoe, pointed out by its very peculiar appearance and manner of growth, must have struck powerfully on the imaginations of a superstitious people. Its virtues may have been soon discovered. It has been fully proved against the opinion of Celsus, that internal remedies were of very early use.* Yet, if it had not, the practice of the present savage nations supports the probability of that opinion. By some modern authors the misletoe is said to be of signal service in the cure of certain convulsive distempers, which, by their suddenness, their violence, and their unaccountable symptoms, have been ever considered as supernatural. The epilepsy was by the Romans for that reason called *morbus sacer;* and all other nations have regarded it in the same light. The Druids also looked upon vervain, and some other plants, as holy, and probably for a similar reason.

The other objects of the Druid worship were chiefly serpents in the animal world; and rude heaps of stone, or great pillars without polish or sculpture, in the inanimate. The serpent by his dangerous qualities is not ill adapted to inspire terror; by his annual renewals to raise admiration; by his make, easily susceptible of many figures, to serve for a variety of symbols, and, by all, to be an object of religious observance: accordingly, no object of idolatry has been more universal.† And this is so natural, that serpent veneration seems to be rising again even in the bosom of mahometanism.‡

The great stones it has been supposed were originally monuments of illustrious men, or the memorials of considerable actions; or they were land-marks for deciding the bounds of fixed property. In time, the memory of the persons or facts, which these stones were erected to perpetuate, wore away; but the reverence which custom, and probably certain periodical ceremonies had preserved for those places, was not so soon obliterated. The monuments themselves then came to be venerated; and not

* See this point in the divine legation of Moses.

† Περὶ παντὶ νομιζομένων παρ' ὑμῖν θεῶν ὅρις συμβολον μεγα ἐν μυστηριον ἀναγραφεῖται. Justin Martyr in Stillingfleet's Origines sacræ.

‡ Norden's travels.

the less, because the reason for venerating them was no longer known. The land-mark was in those times held sacred on account of its great uses, and easily passed into an object of worship. Hence the god Terminus amongst the Romans. This religious observance towards rude stones is one of the most ancient and universal of all customs. Traces of it are to be found in almost all, and especially in these northern nations; and to this day, in Lapland, where heathenism is not yet entirely extirpated, their chief divinity, which they call **Stor Junkare*, is nothing more than a rude stone.

Some writers among the moderns, because the Druids ordinarily made no use of images in their worship, have given into an opinion, that their religion was founded on the unity of the Godhead. But this is no just consequence. The spirituality of the idea, admitting their idea to have been spiritual, does not infer the unity of the object. All the ancient authors, who speak of this order, agree, that beside those great and more distinguishing objects of their worship already mentioned, they had gods answerable to those adored by the Romans. And we know that the northern nations, who overran the Roman empire, had in fact a great plurality of gods, whose attributes, though not their names, bore a close analogy to the idols of the southern world.

The Druids performed the highest act of religion by sacrifice, agreeable to the custom of all other nations. They not only offered up beasts, but even human victims; a barbarity almost universal in the heathen world; but exercised more uniformly, and with circumstances of peculiar cruelty amongst those nations, where the religion of the Druids prevailed. They held that the life of a man was the only atonement for the life of a man. They frequently inclosed a number of wretches, some captives, some criminals, and, when these were wanting, even innocent victims, in a gigantic statue of wicker work, to which they set fire, and invoked their deities amidst the horrid cries and shrieks of the sufferers, and the shouts of those who assisted at this tremendous rite.

There were none among the ancients more eminent for all the arts of divination than the Druids. Many of the superstitious practices in use to this day among the country people, for discovering their future fortune,

* Scheffer's Lapland, p. 92. the translation.

seem to be remains of druidism. Futurity is the great concern of mankind. Whilst the wise and learned look back upon experience and history, and reason from things past about events to come, it is natural for the rude and ignorant, who have the same desires without the same reasonable means of satisfaction, to inquire into the secrets of futurity, and to govern their conduct by omens, dreams and prodigies. The Druids, as well as the Etruscan and Roman priesthood, attended with diligence the flight of birds, the pecking of chickens, and the entrails of their animal sacrifices. It was obvious that no contemptible prognostics of the weather were to be taken from certain motions and appearances in birds and beasts.* A people, who lived mostly in the open air, must have been well skilled in these observations. And as changes in the weather influenced much the fortune of their huntings or their harvests, which were all their fortunes, it was easy to apply the same prognostics to every event, by a transition very natural and common; and thus probably arose the science of auspices, which formerly guided the deliberations of councils, and the motions of armies, though now they only serve and scarcely serve to amuse the vulgar.

The Druid temple is represented to have been nothing more than a consecrated wood. The ancients speak of no other. But monuments remain, which show that the Druids were not in this respect wholly confined to groves. They had also a species of building, which in all probability was destined to religious use. This sort of structure was indeed without walls or roof. It was a colonade generally circular, of huge rude stones, sometimes single, sometimes double; sometimes with, often without an architrave. These open temples were not in all respects peculiar to the northern nations. Those of the Greeks, which were dedicated to the cœlestial Gods, ought in strictness to have had no roof, and were thence called *Hypæthra*.†

Many of these monuments remain in the British islands, curious for their antiquity, or astonishing for the greatness of the work; enormous masses of rock, so poised as to be set in motion with the slightest touch,

* Cic. de Divinatione, l. 1.

† Decor perficitur statione, cum Jovi, fulguri, et cœlo et soli et lunæ ædificia sub divo, hypæthraque constituuntur. Horum enim et species et effectus in aperto mundo atque lucenti præsentes vidimus. Vitruv. de Architect, p. 6. de Laet. Antwerp.

yet not to be pushed from their place by a very great power; vast altars peculiar and mystical in their structure, thrones, basons, heaps, or kearns; and a variety of other works, displaying a wild industry, and a strange mixture of ingenuity and rudeness. But they are all worthy of attention; not only as such monuments often clear up the darkness, and supply the defects of history; but as they lay open a noble field of speculation for those who study the changes which have happened in the manners, opinions, and sciences of men, and who think them as worthy of regard as the fortune of wars, and the revolutions of kingdoms.

The short account, which I have here given, does not contain the whole of what is handed down to us by ancient writers, or discovered by modern research, concerning this remarkable order. But I have selected those, which appear to me the most striking features, and such as throw the strongest light on the genius and true character of the druidical institution. In some respects it was undoubtedly very singular; it stood out more from the body of the people than the priesthood of other nations; and their knowledge and policy appeared the more striking, by being contrasted with the great simplicity and rudeness of the people, over whom they presided. But notwithstanding some peculiar appearances and practices, it is impossible not to perceive a great conformity between this and the ancient orders, which have been established for the purposes of religion in almost all countries. For to say nothing of the resemblance which many have traced between this and the Jewish priesthood, the Persian Magi, and the Indian Brachmans; it did not so greatly differ from the Roman priesthood, either in the original objects or in the general mode of worship, or in the constitution of their hierarchy. In the original institution, neither of these nations had the use of images; the rules of the Salian as well as Druid discipline were delivered in verse; both orders were under an elective head; and both were for a long time the lawyers of their country. So that when the order of Druids was suppressed by the emperors, it was rather from a dread of an influence incompatible with the Roman government, than from any dislike of their religious opinions.

CHAP. III.

The Reduction of Britain by the Romans.

THE death of Cæsar, and the civil wars which ensued, afforded foreign nations some respite from the Roman ambition. Augustus, having restored peace to mankind, seems to have made it a settled maxim of his reign not to extend the empire. He found himself at the head of a new monarchy; and he was more solicitous to confirm it by the institutions of sound policy, than to extend the bounds of its dominion. In consequence of this plan, Britain was neglected.

Tiberius came a regular successor to an established government. But his politics were dictated rather by his character than his situation. He was a lawful prince, and he acted on the maxims of an usurper. Having made it a rule never to remove far from the capital, and jealous of every reputation, which seemed too great for the measure of a subject, he neither undertook any enterprise of moment in his own person, nor cared to commit the conduct of it to another. There was little in a British triumph that could affect a temper like that of Tiberius.

His successor, Caligula, was not influenced by this, nor indeed by any regular system; for having undertaken an expedition to Britain without any determinate view, he abandoned it on the point of execution without reason. And adding ridicule to his disgrace, his soldiers returned to Rome loaded with shells. These spoils he displayed as the ornaments of a triumph, which he celebrated over the ocean; if in all these particulars we may trust to the historians of that time, who relate things almost incredible of the folly of their masters, and the patience of the Roman people.

But the Roman people, however degenerate, still retained much of their martial spirit; and as the emperors held their power almost entirely by the affection of the soldiery, they found themselves often obliged to such enterprizes as might prove them no improper heads of a military constitution. An expedition to Britain was well adapted to answer all the purposes of this ostentatious policy. The country was remote and little known;

BOOK I. so that every exploit there, as if achieved in another world, appeared at Rome with double pomp and lustre; whilst the sea, which divided Britain from the continent, prevented a failure in that island from being followed by any consequences alarming to the body of the empire. A pretext was not wanting to this war. The maritime Britains, while the terror of the Roman arms remained fresh upon their minds, continued regularly to pay the tribute imposed by Cæsar. But the generation, which experienced that war, having passed away, that which succeeded felt the burthen, but knew from rumor only the superiority which had imposed it. And being very ignorant, as of all things else, so of the true extent of the Roman power, they were not afraid to provoke it by discontinuing the payment of the tribute.

A. D. 43 This gave occasion to the Emperor Claudius, ninety-seven years after the first expedition of Cæsar, to invade Britain in person, and with a great army. But he, having rather surveyed than conducted the war, left in a short time the management of it to his legate Plautius, who subdued without much difficulty those countries which lay to the southward of the Thames, the best cultivated and most accessible parts of the island. But the inhabitants of the rough inland countries, the people called Cattivellauni, made a more strenuous opposition. They were under the command of Caractacus, a chief of great and just renown amongst all the British nations. This leader wisely adjusted his conduct of the war to the circumstances of his savage subjects and his rude country. Plautius obtained no decisive advantages over him. He opposed Ostorius Scapula, who succeeded that general, with the same bravery, but with unequal success. For he was, after various turns of fortune, obliged to abandon his dominions, which Ostorius at length subdued and disarmed.

This bulwark of the British freedom being overturned, Ostorius was not afraid to enlarge his plan. Not content with disarming the enemies of Rome, he proceeded to the same extremities with those nations who had been always quiet, and who, under the name of an alliance, lay ripening for subjection. This fierce people, who looked upon their arms as their only valuable possessions, refused to submit to terms as severe as the most absolute conquest could impose. They unanimously entered into a league against the Romans. But their

confederacy was either not sufficiently strong or fortunate, to resist so able a commander; and only afforded him an opportunity, from a more comprehensive victory, to extend the Roman province a considerable way to the northern and western parts of the island. The frontiers of this acquisition, which extended along the rivers Severn and Nen, he secured by a chain of forts and stations: the inland parts he quieted by the settlement of colonies of his veteran troops at Maldon and Verulam; and such was the beginning of those establishments, which afterwards became so numerous in Britain. This commander was the first who traced in this island a plan of settlement and civil policy to concur with his military operations. For after he had settled these colonies, considering with what difficulty any, and especially an uncivilized, people are broke into submission to a foreign government, he imposed it on some of the most powerful of the British nations in a more indirect manner. He placed them under kings of their own race; and whilst he paid this compliment to their pride, he secured their obedience by the interested fidelity of a prince, who knew that, as he owed the beginning, so he depended for the duration of his authority, wholly upon their favour. Such was the dignity and extent of the Roman policy, that they could number even royalty itself amongst their instruments of servitude.

CHAP. III. A. D. 43

Ostorius did not confine himself within the boundaries of these rivers. He observed that the Silures, inhabitants of South Wales, one of the most martial tribes in Britain, were yet unhurt and almost untouched by the war. He could expect to make no progress to the northward, whilst an enemy of such importance hung upon his rear; especially as they were now commanded by Caractacus, who preserved the spirit of a prince, though he had lost his dominions; and fled from nation to nation, wherever he could find a banner erected against the Romans. His character obtained him reception and command.

Though the Silures, thus headed, did every thing that became their martial reputation, both in the choice and defence of their posts, the Romans, by their discipline and the weight and excellence of their arms, prevailed over the naked bravery of this gallant people, and defeated them in a great battle. Caractacus was soon after betrayed into their hands, and conveyed to Rome. The

A. D. 51

BOOK III. A. D. 51

merit of the prisoner was the sole ornament of a triumph, celebrated over an indigent people, headed by a gallant chief. The Romans crowded eagerly to behold the man, who with inferior forces, and in an obscure corner of the world, had so many years stood up against the weight of their empire.

As the arts of adulation improved in proportion as the real grandeur of Rome declined, this advantage was compared to the greatest conquests in the most flourishing times of the republic; and so far as regarded the personal merit of Caractacus, it could not be too highly rated. Being brought before the emperor, he behaved with such manly fortitude, and spoke of his former actions, and his present condition, with so much plain sense and unaffected dignity, that he moved the compassion of the emperor, who remitted much of that severity, which the Romans formerly exercised upon their captives. Rome was now a monarchy, and that fierce republican spirit was abated, which had neither feeling nor respect for the character of unfortunate sovereigns.

The Silures were not reduced by the loss of Caractacus, and the great defeat they had suffered. They resisted every measure of force or artifice that could be employed against them, with the most generous obstinacy; a resolution, in which they were confirmed by some imprudent words of the legate threatening to extirpate, or what appeared to them scarcely less dreadful, to transplant their nation. Their natural bravery thus hardened into despair, and inhabiting a country very difficult of access, they presented an impenetrable barrier to the progress of that commander. Insomuch that, wasted with continual cares, and with the mortification to find the end of his affairs so little answerable to the splendour of their beginning, Ostorius died of grief; and left all things in confusion.

The legates, who succeeded to his charge, did little more for about sixty years, than secure the frontiers of the Roman province. But in the beginning of Nero's reign, the command in Britain was devolved on Suetonius Paulinus, a soldier of merit and experience; who, when he came to view the theatre of his future operations, and had well considered the nature of the country, discerned evidently, that the war must of necessity be protracted to a great length, if he should be obliged to penetrate into every fastness, to which the enemy retir-

ed, and to combat their flying parties one by one. He therefore resolved to make such a blow at the head, as must of course disable all the inferior members.

The island then called Mona, now Anglesey, at that time was the principal residence of the Druids. Here their councils were held, and their commands from hence were dispersed among all the British nations. Paulinus proposed, in reducing this their favourite and sacred seat, to destroy, or at least greatly to weaken the body of the Druids; and thereby to extinguish the great actuating principle of all the Celtic people, and that which was alone capable of communicating order and energy to their operations.

Whilst the Roman troops were passing that strait, which divides this island from the continent of Britain, they halted on a sudden; not checked by the resistance of the enemy, but suspended by a spectacle of an unusual and altogether surprizing nature. On every side of the British army were seen bands of Druids in their most sacred habits, surrounding the troops, lifting their hands to heaven, devoting to death their enemies, and animating their disciples to religious phrensy by the uncouth ceremonies of a savage ritual, and the horrid mysteries of a superstition familiar with blood. The female Druids also moved about in a troubled order, their hair dishevelled, their garments torn, torches in their hands, and with an horror, increased by the perverted softness of their sex, howled out the same curses and incantations with greater clamour.* Astonished at this sight, the Romans for some time neither advanced, nor returned the darts of the enemy. But at length rousing from their trance, and animating each other with the shame of yielding to the impotence of female and fanatical fury, they found the resistance by no means proportioned to the horror and solemnity of the preparations. These overstrained efforts had, as frequently happens, exhausted the spirits of the men, and stifled that ardour they were intended to kindle. The Britains were defeated;

* There is a curious instance of a ceremony not unlike this in a fragment of an ancient Runick history, which it may not be disagreeable to compare with this part of the British manners. "*Ne vero regem ex improviso adoriretur, Ulafus admoto sacculo suo eundem quatere capit, carmen simul magicum obmurmurans hâc verborum formulâ; Duriter increpetur cum tonitru; stringant Cyclopia tela; injiciant manum Parcæ . . . . acriter excipiant monticolæ Genii plurimi atque gigantes . . . . confundant; quatiant; procellæ . . . . . disrumpant lapides navigium ejus . . . . .* Hickesii. Thesaur. vol. 3. p. 140.

BOOK I. A. D. 51

and Paulinus, pretending to detest the barbarity of their superstition, in reality from the cruelty of his own nature, and that he might cut off the occasion of future disturbances, exercised the most unjustifiable severities on this unfortunate people. He burned the Druids in their own fires; and that no retreat might be afforded to that order, their consecrated woods were every where destroyed. Whilst he was occupied in this service, a general rebellion broke out, which his severity to the Druids served rather to inflame than allay.

From the manners of the republic a custom had been ingrafted into the monarchy of Rome, altogether unsuitable to that mode of government. In the time of the commonwealth, those who lived in a dependent and cliental relation on the great men, used frequently to show marks of their acknowledgment by considerable bequests at their death. But when all the scattered powers of that state became united in the emperor, these legacies followed the general current, and flowed in upon the common patron. In the will of every considerable person he inherited with the children and relations, and such devises formed no inconsiderable part of his revenue; a monstrous practice, which let an absolute sovereign into all the private concerns of his subjects; and which, by giving the prince a prospect of one day sharing in all the great estates, whenever he was urged by avarice or necessity, naturally pointed out a resource by an anticipation always in his power. This practice extended into the provinces. A king of the Iceni* had devised a considerable part of his substance to the Emperor. But the Roman procurator, not satisfied with entering into his master's portion, seized upon the rest, and pursuing his injustice to the most horrible outrages, publicly scourged Boadicea, queen to the deceased prince, and violated his daughters. These cruelties, aggravated by the shame and scorn that attended them; the general severity of the government; the taxes, (new to a barbarous people,) laid on without discretion, extorted without mercy, and even when respited, made utterly ruinous by exorbitant usury; the further mischiefs they had to dread, when more compleatly reduced; all these, with the absence of the legate and the army on a remote expedition, provoked all the tribes of the Britains, provincials, allies, enemies,

* Inhabitants of Norfolk and Suffolk.

to a general insurrection. The command of this confederacy was conferred on Boadicea, as the first in rank and resentment of injuries. They began by cutting off a Roman legion: then they fell upon the colonies of Camolodunum and Verulam, and with a barbarous fury butchered the Romans and their adherents to the number of seventy thousand. CHAP. III. A. D. 51.

An end had been now put to the Roman power in this island, if Paulinus, with unexampled vigour and prudence, had not conducted his army through the midst of the enemy's country, from Anglesey to London. There uniting the soldiers, that remained dispersed in different garrisons, he formed an army of ten thousand men, and marched to attack the enemy in the height of their success and security. The army of the Britains is said to have amounted to two hundred and thirty-thousand; but it was ill composed, and without choice or order; women, boys, old men, priests; full of presumption, tumult, and confusion. Boadicea was at their head; a woman of masculine spirit; but precipitant, and without any military knowledge.

The event was such as might have been expected. Paulinus, having chosen a situation favourable to the smallness of his numbers, and encouraged his troops not to dread a multitude, whose weight was dangerous only to themselves, piercing into the midst of that disorderly crowd, after a blind and furious resistance, obtained a complete victory. Eighty thousand Britains fell in this battle.

Paulinus improved the terror this slaughter had produced by the unparalleled severities which he exercised. This method would probably have succeeded to subdue, but at the same time to depopulate the nation, if such loud complaints had not been made at Rome of the legate's cruelty as procured his recall. A. D. 61.

Three successive legates carried on the affairs of Britain, during the latter part of Nero's reign, and during the troubles occasioned by the disputed succession. But they were all of an inactive character. The victory obtained by Paulinus had disabled the Britains from any new attempt. Content, therefore, with recovering the Roman province, these generals compounded, as it were, with the enemy for the rest of the island. They caressed the troops; they indulged them in their licentiousness; and not being of a character to repress the sedi-

BOOK I. tions that continually arose, they submitted to preserve their ease, and some shadow of authority, by sacrificing the most material parts of it. And thus they continued, soldiers and commanders, by a sort of compact, in a common neglect of all duty, on the frontiers of the empire, in the face of a bold and incensed enemy.

A. D. 61.

A. D. 69 But when Vespasian arrived to the head of affairs, he caused the vigour of his government to be felt in Britain, as he had done in all the other parts of the empire. He was not afraid to receive great services. His legates Ceraelis and Frontinus reduced the Silures and Brigantes; one the most warlike, the other the most numerous people in the island. But its final reduction and perfect settlement was reserved for Julius Agricola, a man, by whom it was a happiness for the Britains to be conquered. He was endued with all those bold and popular virtues, which would have given him the first place in the times of the free republic; and he joined to them all that reserve and moderation which enabled him to fill great offices with safety, and made him a good subject under a jealous despotism.

A. D. 71

Though the summer was almost spent when he arrived in Britain, knowing how much the vigour and success of the first stroke influences all subsequent measures, he entered immediately into action. After reducing some tribes, Mona became the principal object of his attention. The cruel ravages of Paulinus had not entirely effaced the idea of sanctity, which the Britains by a long course of hereditary reverence had annexed to that island. It became once more a place of consideration by the return of the Druids.

Here Agricola observed a conduct very different from that of his predecessor Paulinus; the island, when he had reduced it, was treated with great lenity. Agricola was a man of humanity and virtue; he pitied the condition and respected the prejudices of the conquered. This behavior facilitated the progress of his arms; insomuch that, in less than two campaigns, all the British nations, comprehended in what we now call England, yielded themselves to the Roman government, as soon as they found that peace was no longer to be considered as a dubious blessing. Agricola carefully secured the obedience of the conquered people, by building forts and stations in the most important and commanding places. Having taken these precautions for securing his rear, he advanced

northwards; and penetrating into Caledonia, as far as the river Tay, he there built a pretentura, or line of forts between the two Friths, which are in that place no more than twenty miles asunder. The enemy, says Tacitus, was removed, as it were, into another island; and this line Agricola seems to have destined as the boundary of the empire. For though in the following year he carried his arms further, and, as it is thought, to the foot of the Grampian mountains, and there defeated a confederate army of the Caledonians, headed by Galgacus, one of their most famous chiefs, yet he built no fort to the northward of this line; a measure which he never omitted, when he intended to preserve his conquests. The expedition of that summer was probably designed only to disable the Caledonians from attempting any thing against his barrier. But he left them their mountains, their arms, and their liberty, a policy, perhaps not altogether worthy of so able a commander. He might the more easily have completed the conquest of the whole island, by means of the fleet, which he equipped to co-operate with his land forces in that expedition. This fleet sailed quite round Britain, which had not been before, by any certain proof, known to be an island; a circumnavigation, in that immature state of naval skill, of little less fame than a voyage round the globe in the present age.

In the interval between his campaigns, Agricola was employed in the great labours of peace. He knew that the general must be perfected by the legislator; and that the conquest is neither permanent nor honourable, which is only an introduction to tyranny. His first care was the regulation of his household, which, under former legates, had been always full of faction and intrigue, lay heavy on the province, and was as difficult to govern. He never suffered his private partialities to intrude into the conduct of public business; nor in appointing to employments did he permit solicitation to supply the place of merit, wisely sensible that a proper choice of officers is almost the whole of government. He eased the tribute of the province, not so much by reducing it in quantity, as by cutting off all those vexatious practices, which attended the levying of it, far more grievous than the imposition itself. Every step in securing the subjection of the conquered country was attended with the utmost care, in providing for its peace and internal order. Agricola reconciled the Britains to the Roman govern-

BOOK I. A. D. 84.

ment by reconciling them to the Roman manners. He moulded that fierce nation by degrees to soft and social customs; leading them imperceptibly into a fondness for baths, for gardens, for grand houses, and all the commodious elegancies of a cultivated life. He diffused a grace and dignity over this new luxury by the introduction of literature. He invited instructors in all the arts and sciences from Rome; and he sent the principal youth of Britain to that city to be educated at his own expense. In short, he subdued the Britains by civilizing them; and made them exchange a savage liberty for a polite and easy subjection. His conduct is the most perfect model for those employed in the unhappy, but sometimes necessary task of subduing a rude and free people.

Thus was Britain, after a struggle of fifty-four years, entirely bent under the yoke, and moulded into the Roman empire. How so stubborn an opposition could have been so long maintained against the greatest power on earth, by a people ill armed, worse united, without revenues, without discipline, has justly been deemed an object of wonder. Authors are generally contented with attributing it to the extraordinary bravery of the ancient Britains. But certainly the Britains fought with armies as brave as the world ever saw, with superior discipline and more plentiful resources.

To account for this opposition, we must have recourse to the general character of the Roman politics at this time. War, during this period, was carried on upon principles very different from those that actuated the republic. Then one uniform spirit animated one body through whole ages. With whatever state they were engaged, the war was so prosecuted as if the republic could not subsist, unless that particular enemy were totally destroyed. But when the Roman dominion had arrived to as great an extent as could well be managed; and that the ruling power had more to fear from disaffection to the government than from enmity to the empire, with regard to foreign affairs, common rules and a moderate policy took place. War became no more than a sort of exercise for the Roman forces.* Even whilst they were declaring war, they looked towards an accommodation, and were satisfied with reasonable terms when

* *Rem Romanam huc, satietate gloriæ provectum, ut cæteris quoque nationibus quietem velit.* Tacit. Annal. 12.

they concluded it. Their politics were more like those of the present powers of Europe, where kingdoms seek rather to spread their influence than to extend their dominion; to awe and weaken rather than to destroy. Under inactive and jealous princes, the Roman legates seldom dared to push the advantages they had gained far enough to produce a dangerous reputation.* They wisely stopped when they came to the verge of popularity. And these emperors fearing as much from the generals as their generals from them, such frequent changes were made in the command, that the war was never systematically carried on. Besides, the change of emperors (and their reigns were not long) almost always brought on a change of measures; and the councils even of the same reign were continually fluctuating, as opposite court factions happened to prevail. Add to this, that during the commotions which followed the death of Nero, the contest for the purple turned the eyes of the world from every other object. All persons of consequence interested themselves in the success of some of the contending parties; and the legates in Britain, suspended in expectation of the issue of such mighty quarrels, remained unactive till it could be determined for what master they were to conquer.

On the side of the Roman government, these seem to have been some of the causes which so long protracted the fate of Britain. Others arose from the nature of the country itself, and from the manners of its inhabitants. The country was then extremely woody and full of morasses. There were originally no roads. The motion of armies was therefore difficult, and communication in many cases impracticable. There were no cities, no towns, no places of cantonment for soldiers; so that the Roman forces were obliged to come into the field late, and to leave it early in the season. They had no means to awe the enemy, and to prevent their machinations during the winter. Every campaign they had nearly the same work to begin. When a civilized nation suffers some great defeat, and loses some places critically situated, such is the mutual dependence of the several parts by commerce, and by the orders of a well regulated community, that the whole is easily secured. A long continued state of war is unnatural to such a nation. They abound with

* *Nam duces, ubi impetrando triumphalium insigni sufficere res suas credidérant, hostem omittebant.* Tacit. 4. c. 23.

BOOK I. A. D. 84.

artizans, with traders, and a number of settled and unwarlike people, who are less disturbed in their ordinary course by submitting to almost any power, than in a long opposition; and as this character diffuses itself through the whole nation, they find it impossible to carry on a war, when they are deprived of the usual resources.

But in a country like ancient Britain, there are as many soldiers as inhabitants. They unite and disperse with ease. They require no pay nor formal subsistence; and the hardships of an irregular war are not very remote from their ordinary course of life. Victories are easily obtained over such a rude people, but they are rarely decisive; and the final conquest becomes a work of time and patience. All that can be done is to facilitate communication by roads; and to secure the principal avenues, and the most remarkable posts on the navigable rivers, by forts and stations. To conquer the people, you must subdue the nature of the country. The Romans at length effected this; but until this was done, they never were able to make a perfect conquest.

I shall now add something concerning the government the Romans settled here, and of those methods which they used to preserve the conquered people under an entire subjection. Those nations, who had either passively permitted, or had been instrumental in the conquest of their fellow Britains, were dignified with the title of allies; and thereby preserved their possessions, laws and magistrates: they were subject to no kind of charge or tribute. But as their league was not equal, and that they were under the protection of a superior power, they were entirely divested of the right of war and peace; and in many cases an appeal lay to Rome in consequence of their subordinate and dependent situation. This was the lightest species of subjection; and it was generally no more than a step preparatory to a stricter government.

The condition of those towns and communities, called municipia, by their being more closely united to the greater state, seemed to partake a degree less of independence. They were adopted citizens of Rome; but whatever was detracted from their ancient liberty, was compensated by a more or less complete possession of the privileges which constituted a Roman city, according to the merits which had procured their adoption. These cities were models of Rome in little; their courts

and magistrates were the same; and though they were at liberty to retain their old laws, and to make new at their pleasure, they commonly conformed to those of Rome. The municipia were not subject to tribute.

When a whole people had resisted the Roman power with great obstinacy, had displayed a readiness to revolt upon every occasion, and had frequently broken their faith, they were reduced into, what the Romans called, the form of a province: that is, they lost their laws, their liberties, their magistrates; they forfeited the greatest part of their lands; and they paid a heavy tribute for what they were permitted to retain.

In these provinces, the supreme government was in the *prætor*, sent by the senate; who commanded the army, and in his own person exercised the judicial power. Where the sphere of his government was large, he deputed his legates to that employment, who judged according to the standing laws of the republic, aided by those occasional declarations of law called the prætorial edicts. The care of the revenue was in the *quæstor*. He was appointed to that office in Rome; but when he acted in a judicial capacity, it was always by commission from the *prætor* of the province.* Between these magistrates, and all others, who had any share in the provincial government, the Roman manners had established a kind of sacred relation, as inviolable as that of blood.† All the officers were taught to look up to the *prætor* as their father, and to regard each other as brethren; a firm and useful bond of concord in a virtuous administration; a dangerous and oppressive combination in a bad one. But like all the Roman institutions it operated strongly towards its principal purpose, the security of dominion; which is by nothing so much exposed, as the factions and competitions of the officers; when the governing party itself gives the first example of disobedience.

On the overthrow of the commonwealth, a remarkable revolution ensued in the power and the subordination of these magistrates. For as the prince came alone to possess all, that was, by a proper title, either imperial or prætorial authority, the ancient prætors dwindled into his legates; by which the splendor and importance of that dignity were much diminished. The business of the

* *Sigonii de antiquo jure provinciarum*. l. 1 & 2.
† Cic. in Verrem, 1.

BOOK I. A. D. 84

quæstor at this time seems to have been transferred to the emperor's procurator. The whole of the public revenue became part of the fisc, and was considered as the private estate of the prince. But the old office under this new appellation rose in proportion as the prætorship had declined. For the procurator seems to have drawn to himself the cognizance of all civil, while capital cases alone were reserved for the judgment of the legate.* And though his power was at first restrained within narrow bounds, and all his judgments were subject to a review and reversal by the prætor and the senate, he gradually grew into independence of both, and was at length by Claudius invested with a jurisdiction absolutely uncontrollable. Two causes, I imagine, joined to produce this change; first, the sword was in the hands of the legate; the policy of the emperors, in order to balance this dangerous authority, thought too much weight could not be thrown into the scale of the procurator; secondly, as the government was now entirely despotical, a connexion between the inferior officers of the empire and the senate,† was found to shock the reason of that absolute mode of government, which extends the sovereign power in all its fullness to every officer in his own district, and renders him accountable to his master alone for the abuse of it.

The veteran soldiers were always thought entitled to a settlement in the country, which had been subdued by their valour. The whole legion, with the tribunes, the centurions, and all the subordinate officers, were seated on an allotted portion of the conquered lands, which were distributed among them according to their rank. These colonies were disposed throughout the conquered country, so as to sustain each other; to surround the possessions that were left to the conquered; to mix with the municipia or free towns, and to over-awe the allies. Rome extended herself by her colonies into every part of her empire, and was every where present. I speak here only of the military colonies, because no other, I imagine, were ever settled in Britain.

There were few countries of any considerable extent, in which all these different modes of government, and

* *Duobus insuper in serviendum tyrannis; quorum legatus in sanguinem, procurator in bona saviret.* Tacit. Annal. 12. c. 60.

† *Ne principatus vim resolveret, cuncta ad senatum vocando; eam conditionem esse imperandi, ut non aliter ratio constet, quam si uni reddatur.* Tacit. Annal. 1.

different shades and gradations of servitude did not exist together. There were allies, municipia, provinces, and colonies in this island as elsewhere; and those dissimilar parts, far from being discordant, united to make a firm and compacted body, the motion of any member of which could only serve to confirm and establish the whole; and when time was given to this structure to coalesce and settle, it was found impossible to break any part of it from the empire.

By degrees the several parts blended and softened into one another. And as the remembrance of enmity on the one hand wore away by time, so on the other the privileges of the Roman citizens at length became less valuable. When nothing throughout so vast an extent of the globe was of consideration but a single man, there was no reason to make any distinction amongst his subjects. Claudius first gave the full rights of the city to all the Gauls. Under Antoninus Rome opened her gates still wider. All the subjects of the empire were made partakers of the same common rights. The provincials flocked in; even slaves were no sooner enfranchised, than they were advanced to the highest posts; and the plan of comprehension, which had overturned the republic, strengthened the monarchy.

Before the partitions were thus broken down, in order to support the empire and to prevent commotions, they had a custom of sending spies into all the provinces; where, if they discovered any provincial laying himself out for popularity, they were sure of finding means, for they scrupled none to repress him. It was not only the *prætor* with his train of lictors and apparitors, the rods and the axes, and all the insolent parade of a conqueror's jurisdiction; every private Roman seemed a kind of magistrate: they took cognizance of all their words and actions; and hourly reminded them of that jealous and stern authority, so vigilant to discover, and so severe to punish the slightest deviations from obedience.

As they had framed the action *de pecuniis repetundis* against the avarice and rapacity of the provincial governors; they made at length a law,* which, one may say, was against their virtues. For they prohibited them from receiving addresses of thanks on their administration, or any other public mark of acknowledgment, lest

* Tacit. Annal. l. 15. c. 21, 22.

BOOK I. A. D. 84

they should come to think that their merit or demerit consisted in the good or ill opinion of the people, over whom they ruled. They dreaded either a relaxation of government, or a dangerous influence in the legate, from the exertion of an humanity too popular.

These are some of the civil and political methods, by which the Romans held their dominion over conquered nations; but even in peace, they kept up a great military establishment. They looked upon the interior country to be sufficiently secured by the colonies: their forces were therefore generally quartered on the frontiers. There they had their *stativa* or stations; which were strong intrenched camps, many of them fitted even for a winter residence. The communication between these camps, the colonies, and the municipal towns, was formed by great roads, which they called military ways. The two principal of these ran, in almost strait lines, the whole length of England from north to south. Two others intersected them from east to west. The remains show them to have been in their perfection noble works, in all respects worthy the Roman military prudence, and the majesty of the empire. The Anglo-Saxons called them streets.* Of all the Roman works, they respected, and kept up these alone. They regarded them with a sort of sacred reverence, granting them a peculiar protection and great immunities. Those who travelled on them, were privileged from arrests in all civil suits.

As the general character of the Roman government was hard and austere, it was particularly so in what regarded the revenue. This revenue was either fixed or occasional. The fixed consisted, first of an annual tax on persons and lands; but in what proportion to the fortunes of the one, or the value of the other, I have not been able to ascertain. Next was the imposition called *decuma*, which consisted of a tenth, and often a greater portion of the corn of the province, which was generally delivered in kind. Of all other products a fifth was paid. After this tenth had been exacted on the corn, they were obliged to sell another tenth, or a more considerable part to the *prætor* at a price estimated by himself. Even what remained was still subject to be bought up in the same manner, and at the pleasure of the same magistrate; who, independent of these taxes

* The four roads, they called Watling-street, Ikenild-street, Ermin-street, and the Fosseway.

and purchases, received for the use of his household a large portion of the corn of the province. The most valuable of the pasture grounds were also reserved to the public; and a considerable revenue was thence derived, which they called *Scriptura*. The state made a monopoly of almost the whole produce of the land, which paid several taxes, and was further enhanced by passing through several hands, before it came to popular consumption.

The third great branch of the Roman revenue was the *portorium*; which did not differ from those impositions which we now call customs and duties of export and import.

This was the ordinary revenue; beside which, there were occasional impositions for shipping, for military stores and provisions, and for defraying the expense of the *prætor* and his legates on the various circuits they made for the administration of the province. This last charge became frequently a means of great oppression; and several ways were from time to time attempted, but with little effect, to confine it within reasonable bounds.* Amongst the extraordinary impositions must be reckoned the obligation they laid on the provincials to labour at the public works, after the manner of what the French call the *corvée*, and we term statute labour.

As the provinces, burthened by the ordinary charges, were often in no condition of levying these occasional taxes, they were obliged to borrow at interest. Interest was then to communities at the same exorbitant rate as to individuals. No province was free from a most onerous public debt; and that debt was far from operating like the same engagement contracted in modern states; by which, as the creditor is thrown into the power of the debtor, they often add considerably to their strength, and to the number and attachment of their dependents. The prince in this latter case borrows from the subject, or from a stranger. The one becomes more a subject, and the other less a stranger. But in the Roman provinces, the subject borrowed from his master, and he thereby doubled his slavery. The overgrown favourites and wealthy nobility of Rome advanced money to the provincials; and they were in a condition both to prescribe the terms of the loan, and to enforce the payment. The provinces groaned at once under all the se-

* Cod. lib. XII. tit. LXII.

BOOK I. verity of public imposition, and the rapaciousness of private usury. They were overrun by publicans,
A. D. farmers of the taxes, agents, confiscators, usurers, bank-
84 ers, those numerous and insatiable bodies, which always flourish in a burthened and complicated revenue. In a word, the taxes in the Roman empire were so heavy, and in many respects so injudiciously laid on, that they have been not improperly considered as one cause of its decay and ruin. The Roman government, to the very last, carried something of the spirit of conquest in it; and this system of taxes seems rather calculated for the utter impoverishment of nations, in whom a long subjection had not worn away the remembrance of enmity, than for the support of a just commonwealth.

CHAP. IV.

The Fall of the Roman Power in Britain.

A. D. After the period which we have just closed, no
117 mention is made of the affairs of Britain, until the reign of Adrian. At that time was wrought the first remarkable change in the exterior policy of Rome. Although some of the emperors contented themselves with those limits, which they found at their accession, none before this prince had actually contracted the bounds of the empire. For being more perfectly acquainted with all the countries, that composed it, than any of his predecessors, what was strong and what weak, and having formed to himself a plan wholly defensive, he purposely abandoned several large tracts of territory, that he might render what remained more solid and compact.

121 This plan particularly affected Britain. All the conquests of Agricola to the northward of the Tyne were relinquished; and a strong rampart was built from the mouth of that river, on the east, to Solway frith on the Irish sea; a length of about eighty miles. But in the reign of his successor, Antoninus Pius, other reasonings
140 prevailed, and other measures were pursued. The legate, who then commanded in Britain, concluding that the Caledonians would construe the defensive policy of Adrian into fear, that they would naturally grow more numerous in a larger territory, and more haughty when

they saw it abandoned to them, the frontier was again advanced to Agricola's second line, which extended between the friths of Forth and Clyde, and the stations, which had been established by that general, were connected with a continued wall. CHAP. IV. A. D 140.

From this time those walls become the principal object in the British history. The Caledonians, or (as they are called) the Picts, made very frequent, and sometimes successful attempts upon this barrier, taking advantage more particularly of every change in government, whilst the soldiery, throughout the empire, were more intent upon the choice of a master than the motions of an enemy. In this dubious state of unquiet peace and unprosecuted war the province continued, until Severus came to the purple; who, finding that Britain had grown into one of the most considerable provinces of the empire, and was at the same time in a dangerous situation, resolved to visit that island in person, and to provide for its security. He led a vast army into the wilds of Caledonia; and was the first of the Romans, who penetrated to the most northern boundary of this island. The natives, defeated in some engagements, and wholly unable to resist so great and determined a power, were obliged to submit to such a peace as the emperor thought proper to impose. Contenting himself with a submission, always cheaply won from a barbarous people, and never long regarded, Severus made no sort of military establishment in that country. On the contrary, he abandoned the advanced work which had been raised in the reign of Antoninus; and limiting himself by the plan of Adrian, he either built a new wall near the former, or he added to the work of that emperor such considerable improvements and repairs, that it has since been called the wall of Severus. 207 208 209

Severus with great labour and charge terrified the Caledonians; but he did not subdue them. He neglected those easy and assured means of subjection, which the nature of that part of Britain affords to a power master of the sea, by the bays, friths, and lakes, with which it is every where pierced, and in some almost cut through. A few garrisons at the necks of land, and a fleet to connect them, and to awe the coast, must at any time have been sufficient irrecoverably to subdue that part of Britain. This was a neglect in Agricola occasioned probably by a limited command; and it was not

BOOK I. A. D. 209

rectified by boundless authority in Severus. The Caledonians again resumed their arms, and renewed their ravages on the Roman frontier. Severus died before he could take any new measures; and from his death there is an almost total silence concerning the affairs of Britain until the division of the empire.

Had the unwieldy mass of that overgrown dominion been effectively divided, and divided into large portions, each forming a state separate and absolutely independent, the scheme had been far more perfect. Though the empire had perished, these states might have subsisted; and they might have made a far better opposition to the inroads of the barbarians, even than the whole united; since each nation would have its own strength solely employed in resisting its own particular enemies. For notwithstanding the resources, which might have been expected from the entireness of so great a body, it is clear from history, that the Romans were never able to employ with effect, and at the same time, above two armies; and that, on the whole, they were very unequal to the defence of a frontier of many thousand miles in circuit.

But the scheme which was pursued, the scheme of joint emperors, holding by a common title, each governing his proper territory, but not wholly without authority in the other portions, this formed a species of government, of which it is hard to conceive any just idea. It was a government in continual fluctuation from one to many, and from many again to a single hand. Each state did not subsist long enough independent, to fall into those orders and connected classes of men, that are necessary to a regular commonwealth; nor had they time to grow into those virtuous partialities, from which nations derive the first principle of their stability.

The events which follow sufficiently illustrate these reflections; and will show the reason of introducing them in this place, with regard to the empire in general, and to Britain more particularly.

In the division which Dioclesian first made of the Roman territory, the western provinces, in which Britain was included, fell to Maximian. It was during his reign that Britain, by an extraordinary revolution, was for some time entirely separated from the body of the empire. Carausius, a man of obscure birth, and a barbarian (for now not only the army, but the senate was

filled with foreigners) had obtained the government of Bologne. He was also entrusted with the command of a fleet stationed in that part, to oppose the Saxon pirates, who then began cruelly to infest the north-west parts of Gaul, and the opposite shore of Britain. But Carausius made use of the power with which he had been entrusted, not so much to suppress the pirates, as to aggrandize himself. He even permitted their depredations, that he might intercept them on their return, and enrich himself with the retaken plunder. By such methods he acquired immense wealth, which he distributed with so politic a bounty among the seamen of his fleet, and the legions in Britain, that by degrees he disposed both the one and the other to a revolt in his favour.

As there were then no settled principles either of succession or election in the empire, and all depended on the uncertain faith of the army, Carausius made his attempt perhaps with the less guilt, and found the less difficulty in prevailing upon the provincial Britains to submit to a sovereignty which seemed to reflect a sort of dignity on themselves. In this island he established the seat of his new dominion; but he kept up and augmented his fleet, by which he preserved his communication with his old government, and commanded the intermediate seas. He entered into a close alliance with 286
the Saxons and Frisians, by which he at once preserved his own island from their depredations, and rendered his maritime power irresistible. He humbled the Picts by several defeats; he repaired the frontier wall, and supplied it with good garrisons. He made several roads equal to the works of the greatest emperors. He cut canals with vast labour and expense through all the low eastern parts of Britain; at the same time draining those fenny countries and promoting communication and commerce. On these canals he built several cities. Whilst 290
he thus laboured to promote the internal strength and happiness of his kingdom, he contended with so much success against his former masters, that they were at length obliged not only to relinquish their right to his acquisition, but to admit him to a participation of the imperial titles. He reigned after this for seven years prosperously and with great glory; because he wisely set bounds to his ambition, and contented himself with the possession of a great country, detached from the rest

BOOK I. A. D. 290 of the world, and therefore easily defended. Had he lived long enough, and pursued this plan with consistency, Britain, in all probability, might then have become and might have afterwards been an independent and powerful kingdom, instructed in the Roman arts, and freed from their dominion. But the same distemper of the state, which had raised Carausius to power, did not suffer him long to enjoy it. The Roman soldiery at that time was wholly destitute of military principle. That religious regard to their oath, the great bond of ancient discipline, had been long worn out; and the want of it was not supplied by that punctilio of honour and loy-
293 alty, which is the support of modern armies. Carausius was assassinated, and succeeded in his kingdom, by Alectus, the captain of his guards. But the murderer, who did not possess abilities to support the power he had acquired by his crimes, was in a short time defeated, and in his turn put to death by Constantius Clorus. In about three years from the death of Carausius, Britain, after a short experiment of independency, was again united to the body of the empire.

304 Constantius, after he came to the purple, chose this island for his residence. Many authors affirm that his wife Helena was a Britain. It is more certain that his son Constantine the Great was born here, and enabled to succeed his father principally by the helps which he derived from Britain.

306 Under the reign of this great prince there was an almost total revolution in the internal policy of the empire. This was the third remarkable change in the Roman government since the dissolution of the commonwealth. The first was that by which Antoninus had taken away the distinctions of the municipium, province, and colony, communicating to every part of the empire those privileges, which had formerly distinguished a citizen of Rome. Thus the whole government was cast into a more uniform and simple frame, and every mark of conquest was finally effaced. The second alteration was the division of the empire by Dioclesian. The third was the change made in the great offices of the state, and the revolution in religion under Constantine.

The *præfecti prætorio*, who, like the commanders of the Janisaries of the Port, by their ambition and turbulence had kept the government in continual ferment, were reduced by the happiest art imaginable. Their

number, only two originally, was increased to four; by which their power was balanced and broken. Their authority was not lessened; but its nature was totally changed: for it became from that time a dignity and office merely civil. The whole empire was divided into four departments under these four officers. The subordinate district were governed by their vicarii; and Britain accordingly was under a vicar, subject to the præfectus prætorio of Gaul. The military was divided nearly in the same manner; and it was placed under officers also of a new creation, the *magistri militiæ*. Immediately under these were the *duces*, and under those the *comites*, dukes and counts, titles unknown in the time of the republic, or in the higher empire; but afterwards they extended beyond the Roman territory, and having been conferred by the northern nations upon their leaders, they subsist to this day, and contribute to the dignity of the modern courts of Europe.

But Constantine made a much greater change with regard to religion, by the establishment of christianity. At what time the gospel was first preached in this island, I believe it impossible to ascertain; as it came in gradually, and without, or rather contrary to public authority. It was most probably first introduced among the legionary soldiers; for we find St. Alban, the first British martyr, to have been of that body. As it was introduced privately, so its growth was for a long time insensible; but it shot up at length with great vigour, and spread itself widely at first under the favour of Constantius, and the protection of Helena, and at length under the establishment of Constantine. From this time it is to be considered as the ruling religion; though heathenism subsisted long after, and at last expired imperceptibly, and with as little noise as christianity had been at first introduced.

In this state, with regard to the civil, military, and religious establishment, Britain remained without any change, and at intervals in a tolerable state of repose, until the reign of Valentinian. Then it was attacked all at once with incredible fury and success, and as it were in concert, by a number of barbarous nations. The principal of these were the Scots, a people of ancient settlement in Ireland, and who had thence been transplated into the northern part of Britain, which afterwards derived its name from that colony. The Scots of both

BOOK I. A. D. 364 nations united with the Picts to fall upon the Roman province. To these were added the piratical Saxons, who issued from the mouths of the Rhine. For some years they met but slight resistance, and made a most miserable havoc, until the famous Count Theodosius was sent to the relief of Britain; who by an admirable conduct in war, and as vigorous application to the cure of domestic disorders, for a time freed the country from its enemies and oppressors, and having driven the Picts and Scots into the barren extremity of the island, he shut and barred them in with a new wall, advanced as far as the remotest of the former; and, what had hitherto been im-
368 prudently neglected, he erected the intermediate space into a Roman province, and a regular government under the name of Valentia. But this was only a momentary relief. The empire was perishing by the vices of its constitution.

Each province was then possessed by the inconsiderate ambition of appointing a head to the whole; although, when the end was obtained, the victorious province always returned to its ancient insignificance, and was lost in the common slavery. A great army of Britains followed the fortune of Maximus, whom they had raised to the impe-
388 rial titles, into Gaul. They were there defeated; and from their defeat, as it is said, arose a new people. They are supposed to have settled in Armorica, which was then, like many other parts of the sickly empire, become a mere desert; and that country from this accident has been since called Bretagne.

The Roman province, thus weakened, afforded opportunity and encouragement to the barbarians again to invade and ravage it. Stilico, indeed, during the minority of Honorius, obtained some advantages over them, which procured a short intermission of their hostilities. But as the empire on the continent was now attacked on all sides, and staggered under the innumerable shocks which it received, that minister ventured to recall the Roman forces from Britain, in order to sustain those parts which he judged of more importance, and in greater danger.

411 On the intelligence of this desertion, their barbarous enemies break in upon the Britains, and are no longer resisted. Their ancient protection withdrawn, the people became stupified with terror and despair. They petition the emperor for succour in the most moving terms. The emperor, protesting his weakness, commits

them to their own defence, absolves them from their allegiance, and confers on them a freedom, which they have no longer the sense to value, nor the virtue to defend. The princes, whom after this desertion, they raised and deposed with a stupid inconstancy, were stiled emperors. So hard it is to change ideas, to which men have been long accustomed, especially in government, that the Britains had no notion of a sovereign, who was not to be emperor, nor of an emperor, who was not to be master of the western world. This single idea ruined Britain. Constantine, a native of this island, one of those shadows of imperial majesty, no sooner found himself established at home, than fatally for himself and his country, he turned his eyes towards the continent. Thither he carried the flower of the British youth; all who were any ways eminent for birth, for courage, for their skill in the military or mechanic arts: but his success was not equal to his hopes or his forces. The remains of his routed army joined their countrymen in Armorica, and a baffled attempt upon the empire a second time recruited Gaul and exhausted Britain.

The Scots and Picts, attentive to every advantage, rushed with redoubled violence into this vacuity. The Britains, who could find no protection but in slavery, again implore the assistance of their former masters. At that time Aetius commanded the imperial forces in Gaul, and with the virtue and military skill of the ancient Romans supported the empire tottering with age and weakness. Though he was then pressed hard by the vast armies of Attila, which, like a deluge, had overspread Gaul, he afforded them a small and temporary succour. This detachment of Romans repelled the Scots; they repaired the walls; and animating the Britains by their example and instructions, to maintain their freedom, they departed. But the Scots easily perceived and took advantage of their departure. Whilst they ravaged the country, the Britains renewed their supplications to Aetius. They once more obtained a reinforcement, which again re-established their affairs. They were, however, given to understand, that this was to be their last relief. The Roman auxiliaries were recalled, and the Britains abandoned to their own fortune for ever.

When the Romans deserted this island, they left a 432
country, with regard to the arts of war or government, in a manner barbarous, but destitute of that spirit, or

BOOK I. A. D. 432

those advantages, with which sometimes a state of barbarism is attended. They carried out of each province its proper and natural strength, and supplied it by that of some other, which had no connexion with the country. The troops raised in Britain often served in Egypt; and those which were employed for the protection of this island, were sometimes from Batavia or Germany; sometimes from provinces far to the east. Whenever the strangers were withdrawn, as they were very easily, the province was left in the hands of men wholly unpractised in war. After a peaceable possession of more than three hundred years, the Britains derived but very few benefits from their subjection to the conquerors and civilizers of mankind. Neither does it appear, that the Roman people were at any time extremely numerous in this island, or had spread themselves, their manners, or their language, as extensively in Britain, as they had done in the other parts of their empire. The Welch and the Anglo-Saxon languages retain much less of Latin, than the French, the Spanish, or the Italian. The Romans subdued Britain at a later period; at a time when Italy herself was not sufficiently populous to supply so remote a province; she was rather supplied from her provinces. The military colonies, though in some respects they were admirably fitted for their purposes, had however one essential defect. The lands granted to the soldiers did not pass to their posterity; so that the Roman people must have multiplied poorly in this island, when their increase principally depended on a succession of superannuated soldiers. From this defect the colonies were continually falling to decay. They had also in many respects degenerated from their primitive institution.* We must add that in the decline of the empire a great part of the troops in Britain were barbarians, Batavians, or Germans. Thus at the close of this period, this unhappy country, desolated of its inhabitants, abandoned by its masters, stripped of its artizans, and deprived of all its spirit, was in a condition the most wretched and forlorn.

* *Neque conjugiis suscipiendis, neque alendis liberis sueti, orbas sine posteri. domos relinquebant. Non enim, ut olim universæ legiones, cum tribunis et centurionibus, et suis cujusque ordinis militibus, ut consensu et caritate rempublicam efficerent, sed ignoti inter se, diversis manipulis, sine rectore, sine affectibus mutuis, quasi ex alio genere mortalium, repente in unum collecti, numerus magis quam colonia.* Tacit. annal. xiv. 27.

AN

ABRIDGMENT

OF

ENGLISH HISTORY.

BOOK II.

CHAP. I.

The Entry and Settlement of the Saxons, and their Conversion to Christianity.

CHAP I. A. D. 447

AFTER having been so long subject to a foreign dominion, there was among the Britains no royal family, no respected order in the state, none of those titles to government confirmed by opinion and long use, more efficacious than the wisest schemes for the settlement of the nation. Mere personal merit was then the only pretence to power. But this circumstance only added to the misfortunes of a people who had no orderly method of election, and little experience of merit in any of the candidates. During this anarchy, whilst they suffered the most dreadful calamities from the fury of barbarous nations, which invaded them, they fell into that disregard of religion, and those loose disorderly manners, which are sometimes the consequence of desperate and hardened wretchedness, as well as the common distempers of ease and prosperity.

At length, after frequent elections and deposings, rather wearied out by their own inconstancy, than fixed by the merit of their choice, they suffered Vortigern to reign over them. This leader had made some figure in the conduct of their wars and factions. But he was no sooner settled on the throne, than he showed himself rather like a prince born of an exhausted stock of roy- 447

BOOK II A. D. 447

alty in the decline of empire, than one of those bold and active spirits, whose manly talents obtain them the first place in their country, and stamp upon it that character of vigour essential to the prosperity of a new commonwealth. However, the mere settlement, in spite of the ill administration of government, procured the Britains some internal repose, and some temporary advantages over their enemies the Picts. But having been long habituated to defeats, neither relying on their king or on themselves, and fatigued with the obstinate attacks of an enemy, whom they sometimes checked, but could never remove, in one of their national assemblies it was resolved to call in the mercenary aid of the Saxons, a powerful nation of Germany, which had been long by their piratical incursions terrible not only to them, but to all the adjacent countries. This resolution has been generally condemned. It has been said, that they seem to have, through mere cowardice, distrusted a strength not yet worn down, and a fortune sufficiently prosperous. But as it was taken by general counsel and consent, we must believe that the necessity of such a step was felt, though the event was dubious. The event, indeed, might be dubious; in a state radically weak, every measure vigorous enough for its protection, must endanger its existence.

There is an unquestioned tradition among the northern nations of Europe, importing that all that part of the world had suffered a great and general revolution, by a migration from Asiatic Tartary of a people whom they call Asers. These every where expelled or subdued the ancient inhabitants of the Celtic and Cimbric original. The leader of this Asiatic army was called Odin or Wodin; first their general, afterwards their tutelar deity. The time of this great change is lost in the imperfection of traditionary history, and the attempts to supply it by fable. It is however certain, that the Saxon nation believed themselves the descendants of those conquerors; and they had as good a title to that descent as any other of the northern tribes; for they used the same language, which then was, and is still, spoken, with small variation of the dialects, in all the countries which extend from the polar circle to the Danube. This people most probably derived their name as well as their origin from the Sacæ, a nation of the Asiatic Scythia. At the time of which we write, they had seated themselves in the Cim-

bric Chersonesus, or Jutland, in the countries of Holstein and Sleswick, and thence extended along the Elbe and Weser to the coast of the German ocean, as far as the mouths of the Rhine. In that tract they lived in a sort of loose military commonwealth of the ordinary German model under several leaders, the most eminent of whom was Hengist, descended from Odin, the great conductor of the Asiatic colonies. It was to this chief that the Britains applied themselves. They invited him by a promise of ample pay for his troops, a large share of their common plunder, and the isle of Thanet for a settlement.

The army, which came over under Hengist, did not exceed fifteen hundred men. The opinion which the Britains had entertained of the Saxon prowess was well founded; for they had the principal share in a decisive victory which was obtained over the Picts soon after their arrival; a victory which for ever freed the Britains from all terror of the Picts and Scots, but in the same moment exposed them to an enemy no less dangerous.

Hengist and his Saxons, who had obtained by the free vote of the Britains that introduction into this island they had so long in vain attempted by arms, saw that by being necessary they were superior to their allies. They discovered the character of the king; they were eye-witnesses of the internal weakness and distraction of the kingdom. This state of Britain was represented with so much effect to the Saxons in Germany, that another and much greater embarkation followed the first; new bodies daily crowded in. As soon as the Saxons began to be sensible of their strength, they found it their interest to be discontented; they complained of breaches of a contract, which they construed according to their own designs, and then fell rudely upon their unprepared and feeble allies, who, as they had not been able to resist the Picts and Scots, were still less in a condition to oppose that force by which they had been protected against those enemies, when turned unexpectedly upon themselves. Hengist, with very little opposition, subdued the province of Kent, and there laid the foundation of the first Saxon kingdom. Every battle the Britains fought only prepared them for a new defeat, by weakening their strength, and displaying the inferiority of their courage. Vortigern, instead of a steady and regular resistance, opposed a mixture of timid war and unable negotiation. In one of their meetings, wherein the business, according

BOOK II. to the German mode, was carried on amidst feasting and riot, Vortigern was struck with the beauty of a Saxon virgin, a kinswoman of Hengist, and entirely under his influence. Having married her, he delivered himself over to her councils.

A. D. 447

His people, harassed by their enemies, betrayed by their prince, and indignant at the feeble tyranny that oppressed them, deposed him, and set his son Vortimer in his place. But the change of the king proved no remedy for the exhausted state of the nation, and the constitutional infirmity of the government. For even if the Britains could have supported themselves against the superior abilities and efforts of Hengist, it might have added to their honour, but would have contributed little to their safety. The news of his success had roused all Saxony. Five great bodies of that adventurous people, under different and independent commanders, very nearly at the same time broke in upon as many different parts of the island. They came no longer as pirates, but as invaders. Whilst the Britains contended with one body of their fierce enemies, another gained ground, and filled with slaughter and desolation the whole country from sea to sea. A devouring war, a dreadful famine, a plague, the most wasteful of any recorded in our history, united to consummate the ruin of Britain. The ecclesiastical writers of that age, confounded at the view of those complicated calamities, saw nothing but the arm of God stretched out for the punishment of a sinful and disobedient nation. And truly, when we set before us in one point of view, the condition of almost all the parts which had lately composed the western empire, of Britain, of Gaul, of Italy, of Spain, of Africa, at once overwhelmed by a resistless inundation of most cruel barbarians, whose inhuman method of war made but a small part of the miseries with which these nations were afflicted, we are almost driven out of the circle of political inquiry: we are in a manner compelled to acknowledge the hand of God in those immense revolutions, by which, at certain periods, he so signally asserts his supreme dominion, and brings about that great system of change, which is perhaps as necessary to the moral as it is found to be in the natural world.

452

But whatever was the condition of the other parts of Europe, it is generally agreed, that the state of Britain was the worst of all. Some writers have asserted, that,

except those who took refuge in the mountains of Wales and in Cornwall, or fled into Armorica, the British race was in a manner destroyed. What is extraordinary, we find England in a very tolerable state of population, in less than two centuries after the first invasion of the Saxons; and it is hard to imagine either the transplantation or the increase of that single people to have been, in so short a time, sufficient for the settlement of so great an extent of country. Others speak of the Britains not as extirpated, but as reduced to a state of slavery; and here these writers fix the origin of personal and predial servitude in England.

I shall lay fairly before the reader all I have been able to discover concerning the existence or condition of this unhappy people. That they were much more broken and reduced than any other nation, which had fallen under the German power, I think may be inferred from two considerations. First, that in all other parts of Europe the ancient language subsisted after the conquest, and at length incorporated with that of the conquerors; whereas, in England, the Saxon language received little or no tincture from the Welsh; and it seems, even among the lowest people, to have continued a dialect of pure Teutonic to the time in which it was itself blended with the Norman. Secondly, that on the continent the christian religion, after the northern irruptions, not only remained, but flourished. It was very early and universally adopted by the ruling people. In England it was so entirely extinguished, that, when Augustin undertook his mission, it does not appear that among all the Saxons there was a single person professing christianity.

The sudden extinction of the ancient religion and language appears sufficient to show that Britain must have suffered more than any of the neighbouring nations on the continent. But it must not be concealed that there are likewise proofs, that the British race, though much diminished, was not wholly extirpated; and that those who remained were not, merely as Britains, reduced to servitude. For they are mentioned, as existing, in some of the earlier Saxon laws. In these laws they are allowed a compensation on the footing of the meaner kind of English; and they are even permitted, as well as the English, to emerge out of that low rank into a more libe-

BOOK II. A. D. 500

ral condition. This is degradation, but not slavery.* The affairs of that whole period are, however, covered with an obscurity not to be dissipated. The Britains had little leisure, or ability, to write a just account of a war, by which they were ruined. And the Anglo-Saxons, who succeeded them, attentive only to arms, were, until their conversion, ignorant of the use of letters.

It is on this darkened theatre that some old writers have introduced those characters and actions, which have afforded such ample matter to poets, and so much perplexity to historians. This is the fabulous and heroic age of our nation. After the natural and just representations of the Roman scene, the stage is again crowded with enchanters, giants, and all the extravagant images of the wildest and most remote antiquity. No personage makes so conspicuous a figure in these stories as King Arthur; a prince whether of British or Roman origin, whether born on this Island or in Armorica, is uncertain; but it appears that he opposed the Saxons with remarkable virtue, and no small degree of success, which has rendered him and his exploits so large an argument of romance, that both are almost disclaimed by history. Light scarce begins to dawn until the introduction of christianity; which, bringing with it the use of letters, and the arts of civil life, affords at once a juster account of things and facts, that are more worthy of relation: nor is there indeed any revolution so remarkable in the English story.

The bishops of Rome had for some time meditated the conversion of the Anglo-Saxons. Pope Gregory, who is surnamed the Great, effected that pious design with an uncommon zeal: and he at length found a circumstance highly favourable to it, in the marriage of a daughter of Charibert, a king of the Franks, to the reigning monarch of Kent. This opportunity induced Pope Gregory to commission Augustin, a monk of Rheims, and a man of distinguished piety, to undertake this arduous enterprize.

600 It was in the year of Christ 600, and 150 years after the coming of the first Saxon colonies into England, that Ethelbert, king of Kent, received intelligence of the arrival in his dominions of a number of men in a foreign garb, practising several strange and unusual ce-

* *Leges Inæ* 32 *de cambrico homine agrum possidente.* Idem 54.

remonies, who desired to be conducted to the king's presence, declaring that they had things to communicate to him and to his people of the utmost importance to their eternal welfare. This was Augustin, with forty of the associates of his mission, who now landed in the Isle of Thanet, the same place, by which the Saxons had before entered when they extirpated christianity.

The king heard them in the open air, in order to defeat,* upon a principle of druidical superstition, the effects of their enchantments. Augustin spoke by a Frankish interpreter. The Franks and Saxons were of the same origin, and used at that time the same language. He was favourably received; and a place in the city of Canterbury, the capital of Kent, was allotted for the residence of him and his companions. They entered Canterbury in procession, preceded by two persons, who bore a silver cross and the figure of Christ painted on a board; singing as they went litanies to avert the wrath of God from that city and people.

The king was among their first converts. The principal of his nobility, as usual, followed that example; moved, as it is related, by many signal miracles, but undoubtedly by the extraordinary zeal of the missionaries, and the pious austerity of their lives. The new religion, by the protection of so respected a prince, who held under his dominion or influence all the countries to the southward of the Humber, spread itself with great rapidity. Paganism, after a faint resistance, every where gave way. And indeed the chief difficulties, which christianity had to encounter, did not arise so much from the struggles of opposite religious prejudices, as from the gross and licentious manners of a barbarous people. One of the Saxon princes expelled the christians from his territory, because the priest refused to give him some of that white bread which he saw distributed to his congregation.

It is probable that the order of Druids either did not at all subsist amongst the Anglo-Saxons, or that at this time it had declined not a little from its ancient authority and reputation. Else it is not easy to conceive how they admitted so readily a new system, which at one stroke cut off from their character its whole importance. We even find some chiefs of the Pagan priest-

* *Veteri usus augurio*, says Henry of Huntingdon, p. 321.

BOOK II. A. D. 600

hood amongst the foremost in submitting to the new doctrine. On the first preaching of the gospel in Northumberland, the heathen pontiff of that territory immediately mounted an horse, which to those of his order was unlawful, and breaking into the sacred inclosure, hewed to pieces the idol he had so long served.*

If the order of the Druids did not subsist amongst the Saxons, yet the chief objects of their religion appear to have been derived from that fountain. They indeed worshipped several idols under various forms of men and beasts; and those Gods, to whom they dedicated the days of the week, bore in their attributes, and in the particular days, that were consecrated to them, though not in their names, a near resemblance to the divinities of ancient Rome. But still the great and capital objects of their worship were taken from druidism; trees, stones, the elements, and the heavenly bodies.† These were their principal devotions, laid the strongest hold upon their minds, and resisted the progress of the christian religion with the greatest obstinacy. For we find these superstitions forbidden amongst the latest Saxon laws. A worship which stands in need of the memorial of images or books to support it, may perish when these are destroyed. But when a superstition is established upon those great objects of nature, which continually solicit the senses, it is extremely difficult to turn the mind from things, that in themselves are striking, and that are always present. Amongst the objects of this class must be reckoned the goddess Eostre, who from the etymology of the name, as well as from the season sacred to her, was probably that beautiful planet, which the Greeks and Romans worshipped under the names of Lucifer and Venus. It is from this goddess that in England the Paschal Festival has been called Easter.‡ To these they joined the reverence of various subordinate genii, or demons, fairies, and goblins; fantastical ideas, which in a state of uninstructed nature grow spontaneously out of the wild fancies or fears of men. Thus they worshipped a sort of goddess, whom they called Mara, formed from those frightful appearances, that op-

* Bede Hist. Ec. l. ii. c. 13.

† *Gentiles Deos; et solem vel lunam; ignem vel fluvium; torrentem vel saxa; vel alicujus generis arborum ligna.* L. Cnut. 5. *Superstitiosus ille conventus, qui Frithgear dicitur, circa lapidem, arborem, fontem.* Leg. Presb. Northumb.

‡ Spelman's Glossary, Tit. eod.

press men in their sleep; and the name is still retained among us.*

CHAP I.

A. D. 600

As to the manners of the Anglo-Saxons, they were such as might be expected in a rude people; fierce, and of a gross simplicity. Their cloaths were short. As all barbarians are much taken with exterior form, and the advantages and distinctions which are conferred by nature, the Saxons set an high value on comeliness of person, and studied much to improve it. It is remarkable, that a law of King Ina orders the care and education of foundlings to be regulated by their beauty.† They cherished their hair to a great length, and were extremely proud and jealous of this natural ornament. Some of their great men were distinguished by an appellative taken from the length of their hair.‡ To pull the hair was punishable;‖ and forcibly to cut or injure it was considered in the same criminal light with cutting off the nose or thrusting out the eyes. In the same design of barbarous ornament, their faces were generally painted and scarred. They were so fond of chains and bracelets, that they have given a surname to some of their kings from their generosity in bestowing such marks of favour.§

Few things discover the state of the arts amongst people more certainly than the presents that are made to them by foreigners. The pope on his first mission into Northumberland sent to the queen of that country some stuffs, with ornaments of gold; an ivory comb inlaid with the same metal, and a silver mirror. A queen's want of such female ornaments and utensils shows that the arts were at this time little cultivated amongst the Saxons. These are the sort of presents commonly sent to a barbarous people.

Thus ignorant in sciences and arts, and unpractised in trade or manufacture, military exercises, war, and the preparation for war, was their employment, hunting their pleasure. They dwelt in cottages of wicker work, plastered with clay, and thatched with rushes, where they sat with their families, their officers and domestics, round a fire made in the middle of the house. In this

* *The Night-mare.*
† L. Inæ 19.
‡ *Oslacus promissâ cæsarie heros.* Chron. Saxon. 123.
‖ L. Elfred 42. L. Cnut. apud Brompt. 21.
§ *Edgarus nobilibus torquium largitor.* Chron. Sax. 123. Bed. Hist. Eccl. l. 4. c. 29

BOOK II. A. D. 600

manner their greatest princes lived amidst the ruins of Roman magnificence. But the introduction of christianity, which, under whatever form, always confers such inestimable benefits on mankind, soon made a sensible change in these rude and fierce manners.

It is by no means impossible, that, for an end so worthy, providence, on some occasions, might directly have interposed. The books which contain the history of this time and change, are little else than a narrative of miracles; frequently, however, with such apparent marks of weakness or design, that they afford little encouragement to insist on them. They were then received with a blind credulity; they have been since rejected with as undistinguishing a disregard. But as it is not in my design nor inclination, nor indeed in my power, either to establish or refute these stories, it is sufficient to observe, that the reality or opinion of such miracles was the principal cause of the early acceptance and rapid progress of christianity in this island. Other causes undoubtedly concurred; and it will be more to our purpose to consider some of the human and politic ways, by which religion was advanced in this nation: and those more particularly, by which the monastic institution, then interwoven with christianity, and making an equal progress with it, attained to so high a pitch of property and power, so as in a time extremely short, to form a kind of order, and that not the least considerable, in the state.

CHAP. II.

Establishment of Christianity—of Monastic Institutions—and of their effects.

The marriage of Ethelbert to a christian princess was, we have seen, a means of introducing christianity into his dominions. The same influence contributed to extend it in the other kingdoms of the heptarchy; the sovereigns of which were generally converted by their wives. Among the ancient nations of Germany, the female sex was possessed not only of its natural and common ascendant, but it was believed peculiarly sa-

vred,* and favoured with more frequent revelations of the divine will; women were, therefore, heard with an uncommon attention in all deliberations, and particularly in those that regarded religion. The Pagan superstition of the north furnished in this instance a principle, which contributed to its own destruction.

In the change of religion care was taken to render the transition from falsehood to truth as little violent as possible. Though the first proselytes were kings, it does not appear that there was any persecution. It was a precept of Pope Gregory, under whose auspices this mission was conducted, that the heathen temples should not be destroyed, especially where they were well built; but that, first removing the idols, they should be consecrated anew, by holier rites, and to better purposes,† in order that the prejudices of the people might not be too rudely shocked by a declared profanation of what they had so long held sacred; and that every where beholding the same places, to which they had formerly resorted for religious comfort, they might be gradually reconciled to the new doctrines and ceremonies, which were there introduced; and as the sacrifices used in the Pagan worship were always attended with feasting, and consequently were highly grateful to the multitude, the pope ordered that oxen should as usual be slaughtered near the church, and the people indulged in their ancient festivity.‡ Whatever popular customs of heathenism were found to be absolutely not incompatible with christianity were retained; and some of them were continued to a very late period. Deer were at a certain season brought into St. Paul's church in London, and laid on the altar;§ and this custom subsisted until the reformation. The names of some of the church festivals were, with a similar design, taken from those of the heathen, which had been celebrated at the same time of the year. Nothing could have been more prudent than these regulations; they were indeed formed from a perfect understanding of human nature.

Whilst the inferior people were thus insensibly led into a better order, the example and countenance of the great completed the work. For the Saxon kings and

* *Inesse quinctiam sanctum aliquid et providum putant; nec aut consilia earum aspernantur aut responsa negligunt.* Tacit. de Mor. Ger. c. 8.

† Bed. Hist. Eccl. l. 1. c. 30.

‡ Id. c. eod.

§ Dugdale's History of St. Paul's.

BOOK II. A. D.

ruling men embraced religion with so signal, and in their rank so unusual a zeal, that in many instances they even sacrificed to its advancement the prime objects of their ambition. Wulfere, king of the West Saxons, bestowed the Isle of Wight on the king of Sussex, to persuade him to embrace christianity.* This zeal operated in the same manner in favour of their instructors. The greatest kings and conquerors frequently resigned their crowns, and shut themselves up in monasteries. When kings became monks, an high lustre was reflected upon the monastic state, and great credit accrued to the power of their doctrine, which was able to produce such extraordinary effects upon persons, over whom religion has commonly the slightest influence.

The zeal of the missionaries was also much assisted by their superiority in the arts of civil life. At their first preaching in Sussex, that country was reduced to the greatest distress from a drought, which had continued for three years. The barbarous inhabitants, destitute of any means to alleviate the famine, in an epidemic transport of despair, frequently united forty and fifty in a body, and, joining their hands, precipitated themselves from the cliffs, and were either drowned or dashed to pieces on the rocks. Though a maritime people, they knew not how to fish; and this ignorance probably arose from a remnant of druidical superstition, which had forbidden the use of that sort of diet. In this calamity, Bishop Wilfrid, their first preacher, collecting nets at the head of his attendants, plunged into the sea, and having opened this great resource of food, he reconciled the desperate people to life, and their minds to the spiritual care of those who had shown themselves so attentive to their temporal preservation.†

The same regard to the welfare of the people appeared in all their actions. The christian kings sometimes made donations to the church of lands conquered from their heathen enemies. The clergy immediately baptized and manumitted their new vassals. Thus they endeared to all sorts of men, doctrines and teachers which could mitigate the rigorous law of conquest; and they rejoiced to see religion and liberty advancing with an equal progress. Nor were the monks of this time in any thing more worthy of praise, than in their zeal for personal freedom. In

* Bed. Hist. Eccl. l. 4. c. 13.
† Idem.

the canon, wherein they provided against the alienation of their lands, among other charitable exceptions to this restraint, they particularize the purchase of liberty.* In their transactions with the great, the same point was always strenuously laboured. When they imposed penance, they were remarkably indulgent to persons of that rank. But they always made them purchase the remission of corporal austerity by acts of beneficence. They urged their powerful penitents to the enfranchisement of their own slaves, and to the redemption of those which belonged to others; they directed them to the repair of highways, and to the construction of churches, bridges, and other works of general utility.† They extracted the fruits of virtue even from crimes, and whenever a great man expiated his private offences, he provided in the same act for the public happiness. The monasteries were then the only bodies corporate in the kingdom; and if any persons were desirous to perpetuate their charity by a fund for the relief of the sick or indigent, there was no other way than to confide this trust to some monastery. The monks were the sole channel through which the bounty of the rich could pass in any continued stream to the poor; and the people turned their eyes towards them in all their distresses.

We must observe, that the monks of that time, especially those from Ireland,‡ who had a considerable share in the conversion of all the northern parts, did not show that rapacious desire of riches, which long disgraced, and finally ruined their successors. Not only did they not seek, but seemed even to shun such donations. This prevented that alarm, which might have arisen from an early and declared avarice. At this time the most fervent and holy anchorites retired to places the furthest that could be found from human concourse and help, to the most desolate and barren situations, which even from their horror seemed particularly adapted to men who had renounced the world. Many persons followed them in order to partake of their instructions and prayers, or to form themselves upon their example. An opinion of

* Spelm. Concil. p. 329.

† *Instauret etiam Dei ecclesiam; et instauret vias publicas, pontibus super aquas profundas et super cænosas vias; et manumittat servos suos proprios, et redimat ab aliis hominibus servos suos ad libertatem.* L. Eccl. Edgari. 14.

‡ *Aidanus Finan et Colmannus miræ sanctitatis fuerunt et parsimoniæ. Adeo enim sacerdotes erant illius temporis ab avaritia immunes, ut nec territoria nisi coacti acciperent.* Hen. Hunting. apud Decem. l. 3. p. 338. Bed. Hist. Eccl. l. 3. c. 26.

BOOK II. A. D.

their miracles after their death drew still greater numbers. Establishments were gradually made. The monastic life was frugal, and the government moderate. These causes drew a constant concourse. Sanctified deserts assumed a new face; the marshes were drained and the lands cultivated. And as this revolution seemed rather the effect of the holiness of the place than of any natural causes, it increased their credit; and every improvement drew with it a new donation. In this manner the great abbies of Croyland and Glastonbury, and many others, from the most obscure beginnings, were advanced to a degree of wealth and splendour little less than royal.

In these rude ages government was not yet fixed upon solid principles, and every thing was full of tumult and distraction. As the monasteries were better secured from violence by their character than any other places by laws, several great men, and even sovereign princes, were obliged to take refuge in convents; who, when by a more happy revolution in their fortunes, they were reinstated in their former dignities, thought they could never make a sufficient return for the safety they had enjoyed under the sacred hospitality of these roofs. Not content to enrich them with ample possessions; that others also might partake of the protection they had experienced, they formally erected into an asylum those monasteries, and their adjacent territory. So that all thronged to that refuge who were rendered unquiet by their crimes, their misfortunes, or the severity of their lords; and content to live under a government to which their minds were subject, they raised the importance of their masters by their numbers, their labour, and above all by an inviolable attachment.

The monastery was always the place of sepulture for the greatest lords and kings. This added to the other causes of reverence a sort of sanctity, which, in universal opinion, always attends the repositories of the dead: and they acquired also thereby a more particular protection against the great and powerful—for who would violate the tomb of his ancestors or his own? It was not an unnatural weakness to think that some advantage might be derived from lying in holy places, and amongst holy persons; and this superstition was fomented with the greatest industry and art. The monks of Glastonbury spread a notion, that it was almost impossible any person should be damned whose body lay in their cemetery.

This must be considered as coming in aid of the amplest of their resources, prayer for the dead. CHAP. II. A. D.

But there was no part of their policy, of whatever nature, that procured to them a greater or juster credit, than their cultivation of learning and useful arts. For if the monks contributed to the fall of science in the Roman empire, it is certain that the introduction of learning and civility into this northern world is entirely owing to their labours. It is true, that they cultivated letters only in a secondary way, and as subsidiary to religion. But the scheme of christianity is such that it almost necessitates an attention to many kinds of learning. For the scripture is by no means an irrelative system of moral and divine truths; but it stands connected with so many histories, and with the laws, opinions and manners of so many various sorts of people, and in such different times, that it is altogether impossible to arrive to any tolerable knowledge of it without having recourse to much exterior inquiry. For which reason the progress of this religion has always been marked by that of letters. There were two other circumstances at this time, that contributed no less to the revival of learning. The sacred writings had not been translated into any vernacular language, and even the ordinary service of the church was still continued in the Latin tongue; all, therefore, who formed themselves for the ministry, and hoped to make any figure in it, were in a manner driven to the study of the writers of polite antiquity, in order to qualify themselves for their most ordinary functions. By this means, a practice, liable in itself to great objections, had a considerable share in preserving the wrecks of literature; and was one means of conveying down to our times those inestimable monuments, which, otherwise, in the tumult of barbarous confusion on one hand, and untaught piety on the other, must inevitably have perished. The second circumstance, the pilgrimages of that age, if considered in itself, was as liable to objection as the former; but it proved of equal advantage to the cause of literature. A principal object of these pious journies was Rome, which contained all the little, that was left in the western world, of ancient learning and taste. The other great object of those pilgrimages was Jerusalem; this led them into the Grecian empire, which still subsisted in the east with great majesty and power. Here the Greeks had not only not

BOOK II A. D.

discontinued the ancient studies; but they added to the stock of arts many inventions of curiosity and convenience, that were unknown to antiquity. When, afterwards, the Sarazens prevailed in that part of the world, the pilgrims had also by the same means an opportunity of profiting from the improvements of that laborious people; and however little the majority of these pious travellers might have had such objects in their view, something useful must unavoidably have stuck to them; a few certainly saw with more discernment, and rendered their travels serviceable to their country, by importing other things beside miracles and legends. Thus a communication was opened between this remote island and countries of which it otherwise could then scarcely have heard mention made; and pilgrimages thus preserved that intercourse amongst mankind, which is now formed by politics, commerce, and learned curiosity.

It is not wholly unworthy of observation, that Providence, which strongly appears to have intended the continual intermixture of mankind, never leaves the human mind destitute of a principle to effect it. This purpose is sometimes carried on by a sort of migratory instinct; sometimes by the spirit of conquest; at one time avarice drives men from their homes, at another they are actuated by a thirst of knowledge; where none of these causes can operate, the sanctity of particular places attracts men from the most distant quarters. It was this motive, which sent thousands in those ages to Jerusalem and Rome; and now in a full tide impels half the world annually to Mecca.

By those voyages the seeds of various kinds of knowledge and improvement were at different times imported into England. They were cultivated in the leisure and retirement of monasteries; otherwise, they could not have been cultivated at all: for it was altogether necessary to draw certain men from the general rude and fierce society, and wholly to set a bar between them and the barbarous life of the rest of the world, in order to fit them for study and the cultivation of arts and science. Accordingly, we find every where, in the first institutions for the propagation of knowledge amongst any people, that those who followed it were set apart and secluded from the mass of the community.

The great ecclesiastical chair of this kingdom for near a century was filled by foreigners; they were nomi-

nated by the popes; who were in that age just or politic enough to appoint persons of a merit in some degree adequate to that important charge. Through this series of foreign and learned prelates, continual accessions were made to the originally slender stock of English literature. The greatest and most valuable of these accessions was made in the time and by the care of Theodorus, the seventh arch-bishop of Canterbury. He was a Greek by birth; a man of a high ambitious spirit, and of a mind more liberal, and talents better cultivated, than generally fell to the lot of the western prelates. He first introduced the study of his native language into this island. He brought with him a number of valuable books in many faculties; and amongst them a magnificent copy of the works of Homer, the most ancient and best of poets, and the best chosen, to inspire a people, just initiated into letters, with an ardent love, and with a true taste for the sciences. Under his influence a school was formed at Canterbury; and thus the other great fountain of knowledge, the Greek tongue, was opened in England in the year of our Lord 669. 669

The southern parts of England received their improvements directly through the channel of Rome. The kingdom of Northumberland, as soon as it was converted, began to contend with the southern provinces in an emulation of piety and learning. The ecclesiastics then also kept up and profited by their intercourse with Rome; but they found their principal resources of knowledge from another and a more extraordinary quarter.* The Island of Hii or Columkill is a small and barren rock in the Western Ocean. But in those days it was high in reputation as the scite of a monastery, which had acquired great renown for the rigour of its studies and the severity of its ascetic discipline. Its authority was extended over all the northern parts of Britain and Ireland; and the monks of Hii even exercised episcopal jurisdiction over all those regions. They had a considerable share both in the religious and literate institution of the Northumbrians. Another island of still less importance, in the mouth of the Tees, and called Landisforn, was about this time sanctified by the austerities of an hermit called Cuthbert. It soon became also a very celebrated monastery. It was, from a dread of the ra-

* St. Columbus, or Icolmkill or Iona.

BOOK II. A. D. 669

vages of pirates, removed first to the adjacent part of the continent, and on the same account finally to Durham. The heads of this monastery omitted nothing which could contribute to the glory of their founder, and to the dignity of their house; which became in a very short time, by their assiduous endeavours, the most considerable school, perhaps, in Europe. The great and justest boast of this monastery is the venerable Beda, who was educated, and spent his whole life there. An account of his writings is an account of the English learning in that age, taken in its most advantageous view. Many of his works remain; and he wrote both in prose and verse, and upon all sorts of subjects. His theology forms the most considerable part of his writings. He wrote comments upon almost the whole Scripture, and several homilies on the principal festivals of the church. Both the comments and sermons are generally allegorical in the construction of the text, and simply moral in the application. In these discourses several things seem strained and fanciful; but herein he followed entirely the manner of the earlier fathers, from whom the greatest part of his divinity is not so much imitated as extracted. The systematic and logical method, which seems to have been first introduced into theology by John of Damascus, and which afterwards was known by the name of school divinity, was not then in use, at least in the western church; though soon after it made an amazing progress. In this scheme the allegorical gave way to the literal explication; the imagination had less scope; and the affections were less touched. But it prevailed by an appearance more solid and philosophical; by an order more scientific; and by a readiness of application either for the solution or the exciting of doubts and difficulties.

They also cultivated in this monastery the study of natural philosophy and astronomy. There remain of Beda one entire book, and some scattered essays on these subjects. This book *de rerum naturâ* is concise and methodical, and contains no very contemptible abstract of the physics, which were taught in the decline of the Roman empire. It was somewhat unfortunate that the infancy of English learning was supported by the dotage of the Roman, and that even the spring-head, from whence they drew their instructions, was itself corrupted. However, the works of the great masters of the ancient science

still remained; but in natural philosophy the worst was the most fashionable. The Epicurean physics, the most approaching to rational, had long lost all credit by being made the support of an impious theology and a loose morality. The fine visions of Plato fell into some discredit by the abuse which heretics had made of them; and the writings of Aristotle seem to have been then the only ones much regarded even in natural philosophy, in which branch of science alone they are unworthy of him. Beda entirely follows his system. The appearances of nature are explained by matter and form, and by the four vulgar elements, acted upon by the four supposed qualities of hot, dry, moist, and cold. His astronomy is on the common system of the ancients, sufficient for the few purposes to which they applied it, but otherwise imperfect and grossly erroneous. He makes the moon larger than the earth; though a reflection on the nature of eclipses, which he understood, might have satisfied him of the contrary. But he had so much to copy, that he had little time to examine. These speculations, however erroneous, were still useful; for though men err in assigning the causes of natural operations, the works of nature are by this means brought under their consideration; which cannot be done without enlarging the mind. The science may be false or frivolous; the improvement will be real. It may here be remarked, that soon afterwards the monks began to apply themselves to astronomy and chronology, from the disputes which were carried on with so much heat and so little effect concerning the proper time of celebrating Easter; and the English owed the cultivation of these noble sciences to one of the most trivial controversies of ecclesiastic discipline. Beda did not confine his attention to those superior sciences. He treated of music and of rhethoric, of grammar and the art of versification, and of arithmetic, both by letters and on the fingers: and his work on this last subject is the only one in which that piece of antique curiosity has been preserved to us. All these are short pieces; some of them are in the catechistical method, and seem designed for the immediate use of the pupils in his monastery, in order to furnish them with some leading ideas in the rudiments of these arts, then newly introduced into his country. He likewise made, and probably for the same purpose, a very ample and valuable collection of short philosophical, political, and moral maxims, from

CHAP. II.

A. D. 669

BOOK II. A. D. 669

Aristotle, Plato, Seneca, and other sages of heathen antiquity. He made a separate book of shining commonplaces and remarkable passages, extracted from the works of Cicero, of whom he was a great admirer, though he seems to have been not an happy or diligent imitator in his style. From a view of these pieces, we may form an idea of what stock in the science the English at that time possessed, and what advances they had made. That work of Beda, which is the best known and most esteemed, is the Ecclesiastical History of the English Nation. Disgraced by a want of choice, and frequently by a confused ill disposition of his matter, and blemished with a degree of credulity next to infantine, it is still a valuable, and, for the time, a surprising performance. The book opens with a description of this island, which would not have disgraced a classical author; and he has prefixed to it a chronological abridgment of sacred and profane history, connected from the beginning of the world; which, though not critically adapted to his main design, is of far more intrinsic value, and indeed displays a vast fund of historical erudition. On the whole, though this father of the English learning seems to have been but a genius of the middle class, neither elevated nor subtil, and one who wrote in a low style, simple but not elegant; yet when we reflect upon the time in which he lived, the place in which he spent his whole life, within the walls of a monastery, in so remote and wild a country, it is impossible to refuse him the praise of an incredible industry, and a generous thirst of knowledge.

That a nation, who not fifty years before had but just began to emerge from a barbarism so perfect that they were unfurnished even with an alphabet, should, in so short a time, have established so flourishing a seminary of learning, and have produced so eminent a teacher, is a circumstance which, I imagine, no other nation besides England can boast.

Hitherto we have spoken only of their Latin and Greek literature. They cultivated also their native language, which, according to the opinions of the most adequate judges, was deficient neither in energy nor beauty: and was possessed of such an happy flexibility, as to be capable of expressing with grace and effect every new technical idea, introduced either by theology or science. They were fond of poetry; they sung at all their feasts; and it was counted extremely disgraceful not to be able

to take a part in these performances, even when they challenged each other to a sudden exertion of the poetic spirit. Caedmon, afterwards one of the most eminent of their poets, was disgraced in this manner into an exertion of a latent genius. He was desired in his turn to sing, but, being ignorant and full of natural sensibility, retired in confusion from the company; and by instant and strenuous application soon became a distinguished proficient in the art.

CHAP. III.

Series of Anglo-Saxon Kings from Ethelbert to Alfred; with the invasion of the Danes.

The christian religion having once taken root in Kent, spread itself with great rapidity throughout all the other Saxon kingdoms in England. The manners of the Saxons underwent a notable alteration by this change in their religion; their ferocity was much abated, they became more mild and sociable, and their laws began to partake of the softness of their manners, every where recommending mercy and a tenderness for christian blood. There never was any people, who embraced religion with a more fervent zeal than the Anglo-Saxons, nor with more simplicity of spirit. Their history for a long time shows us a remarkable conflict between their dispositions and their principles. This conflict produced no medium, because they were absolutely contrary; and both operated with almost equal violence. Great crimes and extravagant penances, rapine and an entire resignation of worldly goods, rapes and vows of perpetual chastity, succeeded each other in the same persons. There was nothing, which the violence of their passions could not induce them to commit; nothing, to which they did not submit, to atone for their offences, when reflection gave an opportunity to repent. But by degrees the sanctions of religion began to preponderate; and as the monks in this time attracted all the religious veneration, religion every where began to relish of the cloister; an inactive spirit and a spirit of scruples prevailed: they dreaded to put the greatest criminal to death; they scrupled to engage in any worldly functions. A king of the Saxons dreaded

BOOK II. A. D. that God would call him to an account for the time which he spent in his temporal affairs and had stolen from prayer. It was frequent for kings to go on pilgrimages to Rome, or to Jerusalem on foot, and under circumstances of great hardship. Several kings resigned their crowns to devote themselves to religious contemplation in monasteries—more, at that time, and in this nation, than in all other nations, and in all times. This, as it introduced great mildness into the tempers of the people, made them less warlike, and consequently prepared the way to their forming one body under Egbert, and for the other changes which followed.

The kingdom of Wessex, by the wisdom and courage of King Ina, the greatest legislator and politician of those times, had swallowed up Cornwall, for a while a refuge for some of the old Britains, together with the little kingdom of the south Saxons. By this augmentation it stretched from the land's end to the borders of Kent, the Thames flowing on the north, the ocean washing it on the south. By their situation, the people of Wessex naturally came to engross the little trade which then fed the revenues of England; and their minds were somewhat opened by a foreign communication; by which they became more civilized and better acquainted with the arts of war and of government. Such was the con-
799 dition of the kingdom of Wessex when Egbert was called to the throne of his ancestor. The civil commotions, which for some time prevailed, had driven this prince, early in life, into an useful banishment. He was honourably received at the court of Charlemagne, where he had an opportunity of studying government in the best school, and of forming himself after the most perfect model. Whilst Charlemagne was reducing the continent of Europe into one empire, Egbert reduced England into one kingdom. The state of his own dominions, perfectly united under him, with the other advantages which we have just mentioned, and the state of the neighbouring Saxon governments, made this reduction less difficult. Beside Wessex, there were but two kingdoms of consideration in England, Mercia and Northumberland. They were powerful enough in the advantages of nature, but reduced to great weakness by their divisions. As there is nothing of more moment to any country than to settle the succession of its government on clear and invariable principles, the Saxon monarchies,

which were supported by no such principles, were continually tottering. The right of government sometimes was considered as in the eldest son, sometimes in all; sometimes the will of the deceased prince disposed of the crown; sometimes a popular election bestowed it. The consequence of this was the frequent division and frequent reunion of the same territory, which were productive of infinite mischief: many various principles of succession gave titles to some, pretensions to more; and plots, cabals and crimes could not be wanting to all the pretenders. Thus was Mercia torn to pieces; and the kingdom of Northumberland, assaulted on one side by the Scots, and ravaged on the other by the Danish incursions, could not recover from a long anarchy, into which its intestine divisions had plunged it. Egbert knew how to make advantage of these divisions; fomenting them by his policy at first, and quelling them afterwards by his sword, he reduced these two kingdoms under his government. The same power, which conquered Mercia and Northumberland, made the reduction of Kent and Essex easy: the people on all hands the more readily submitting, because there was no change made in their laws, manners, or the form of their government.

CHAP. III. A. D. 799

Egbert, when he had brought all England under his dominion, made the Welsh tributary, and carried his arms with success into Scotland, assumed the title of monarch of all Britain.* The southern part of the island was now for the first time authentically known by the name of England, and, by every appearance, promised to have arrived at the fortunate moment for forming a permanent and splendid monarchy. But Egbert had not reigned seven years in peace, when the Danes, who had before showed themselves in some scattered parties, and made some inconsiderable descents, entered the kingdom in a formidable body. This people came from the same place, whence the English themselves were derived, and they differed from them in little else, than that they still retained their original barbarity and heathenism. These, assisted by the Norwegians and other people of Scandinavia, were the last torrent of the northern ravagers, which overflowed Europe. What is remarkable, they attacked England and France when these two kingdoms were in the height of their grandeur;

Egbert. 827

832

* No Saxon monarch until Athelstan.

BOOK II. France under Charlemagne, England united by Egbert. The good fortune of Egbert met its first check from these people, who defeated his forces with great slaughter near Charmouth in Dorsetshire. It generally happens that a new nation with a new method of making war succeeds against a people only exercised in arms by their own civil dissensions. Besides, England, newly united, was not without those jealousies and that disaffection, which give such great advantage to an invader. But the vigilance and courage of Egbert repaired this defeat; he repulsed the Danes; and died soon after, at Winchester, full of years and glory.

A. D.

838 Ethelwolf.

He left a great but an endangered succession to his son Ethelwolf, who was a mild and virtuous prince, full of a timid piety, which utterly disqualifies for government; and he began to govern at a time when the greatest capacity was wanted. The Danes pour in upon every side; the king rouses from his lethargy; battles are fought with various success, which it were useless and tedious to recount. The event seems to have been, that in some corners of the kingdom the Danes gained a few inconsiderable settlements; the rest of the kingdom, after being terribly ravaged, was left a little time to recover, in order to be plundered anew. But the weak prince took no advantage of this time to concert a regular plan of defence, or to rouse a proper spirit in his people. Yielding himself wholly to speculative devotion, he entirely neglected his affairs; and to compleat the ruin of his kingdom, abandoned it in such critical circumstances, to make a pilgrimage to Rome. At Rome he behaved in the manner that suited his little genius, in making charitable foundations, and in extending the Romescot or Peter-pence, which the folly of some princes of the heptarchy had granted for their particular dominions, over the whole kingdom. His shameful desertion of his country raised so general a discontent, that, in his absence, his own son, with the principal of his nobility and bishops, conspired against him. At his return he found, however, that several still adhered to him; but, here too, incapable of acting with vigour, he agreed to an accommodation, which placed the crown on the head of his rebellious son; and only left to himself a sphere of government as narrow as his genius—the district of Kent, whither he retired to enjoy

860

an inglorious privacy with a wife whom he had married in France. CHAP. IV.

On his death, his son Ethelred still held the crown, which he had preoccupied by his rebellion, and which he polluted with a new stain. He married his father's widow. The confused history of these times furnishes no clear account either of the successions of the kings or of their actions. During the reign of this prince and his successors, Ethelbert and Ethelred, the people in several parts of England seem to have withdrawn from the kingdom of Wessex, and to have revived their former independency. This, added to the weakness of the government, made way for new swarms of Danes, who burst in upon this ill-governed and divided people, ravaging the whole country in a terrible manner, but principally directing their fury against every monument of civility or piety. They had now formed a regular establishment in Northumberland, and gained a very considerable footing in Mercia and East Anglia; they hovered over every part of the kingdom with their fleets; and being established in many places in the heart of the country, nothing seemed able to resist them. 866 Ethelred.

CHAP. IV.

Reign of King Alfred.

It was in the midst of these distractions that Alfred succeeded to a sceptre, which was threatened every moment to be wrenched from his hands. He was then only twenty-two years of age; but exercised from his infancy in troubles and in wars, that formed and displayed his virtue. Some of its best provinces were torn from his kingdom, which was shrunk to the ancient bounds of Wessex; and what remained was weakened by dissension, by a long war, by a raging pestilence, and surrounded by enemies, whose numbers seemed inexhaustible, and whose fury was equally increased by victories or defeats. All these difficulties served only to increase the vigour of his mind. He took the field without delay; but he was defeated with considerable loss. This ominous defeat displayed more fully the greatness of his courage and capacity, which found in desperate hopes and 871

BOOK II. a ruined kingdom such powerful resources. In a short time after he was in a condition to be respected: but he was not led away by the ambition of a young warrior.
A. D. 871 He neglected no measures to procure peace for his country, which wanted a respite from the calamities which had long oppressed it. A peace was concluded for Wessex. Then the Danes turned their faces once more towards Mercia and East Anglia. They had before stripped the inhabitants of all their moveable substance, and now they proceeded without resistance to seize upon their lands. Their success encouraged new swarms of Danes to croud over, who, finding all the northern parts of England possessed by their friends, rushed into Wessex. They were adventurers under different and independent leaders; and a peace, little regarded by the particular party that made it, had no in-
875 fluence at all upon the others. Alfred opposed this shock with so much firmness, that the barbarians had recourse to a stratagem: they pretended to treat; but taking advantage of the truce, they routed a body of the West Saxon cavalry, that were off their guard; mounted their horses, and crossing the country with amazing celerity, surprized the city of Exeter. This was an acquisition of infinite advantage to their affairs, as it secured them a port in the midst of Wessex. Alfred, mortified at this series of misfortunes, perceived clearly that nothing could dislodge the Danes, or redress their continual incursions, but a powerful fleet, which might intercept them at sea; the want of this, principally, gave rise to the success of that people. They used suddenly to land and ravage a part of the country; when a force opposed them, they retired to their ships and passed to some other part, which in a like manner they ravaged, and then retired as before, until the country, entirely harrassed, pillaged and wasted by these incursions, was no longer able to resist them. Then they ventured safely to enter a desolated and disheartened country, and to establish themselves in it. These considerations made Alfred resolve upon equipping a fleet; in this enterprize nothing but difficulties presented themselves; his revenue was scanty; and his subjects altogether unskilled in maritime affairs, either as to the construction or the navigation of ships. He did not therefore despair. With great promises attending a little money, he engaged in his service a number of Frisian seamen, neighbours to the

Danes, and pirates, as they were. He brought by the same means shipwrights from the continent. He was himself present to every thing; and having performed the part of a king in drawing together supplies of every kind, he descended with no less dignity into the artist; improving on the construction; inventing new machines; and supplying by the greatness of his genius, the defects and imperfections of the arts in that rude period. By his indefatigable application, the first English navy was in a very short time in readiness to put to sea. At that time the Danish fleet of 125 ships, stood with full sail for Exeter; they met; but with an omen prosperous to the new naval power, the Danish fleet was entirely vanquished and dispersed. This success drew on the surrendry of Exeter, and a peace, which Alfred much wanted to put the affairs of his kingdom in order. This peace, however, did not last long. As the Danes were continually pouring into some part of England, they found most parts already in Danish hands; so that all these parties naturally directed their course to the only English kingdom. All the Danes conspired to put them in possession of it; and bursting unexpectedly with the united force of their whole body upon Wessex, Alfred was entirely overwhelmed and obliged to drive before the storm of his fortune. He fled in disguise into a fastness in the Isle of Athelney, where he remained four months in the lowest state of indigence, supported by an heroic humility, and that spirit of piety, which neither adverse fortune nor prosperity could overcome. It is much to be lamented, that a character so formed to interest all men, involved in reverses of fortune, that make the most agreeable and useful part of history, should be only celebrated by pens so little suitable to the dignity of the subject. These revolutions are so little prepared, that we neither can perceive, distinctly, the causes which sunk him, nor those which again raised him to power. A few naked facts are all our stock. From these, we see Alfred, assisted by the casual success of one of his nobles, issuing from his retreat; he heads a powerful army once more; defeats the Danes, drives them out of Wessex, follows his blow, expels them from Mercia, subdues them in Northumberland, and makes them tributary in East Anglia; and thus established by a number of victories in a full peace, he is presented to us in that character which makes him venerable to posterity. It is a refresh-

CHAP. IV.

A. D. 875

876

BOOK II. ment, in the midst of such a gloomy waste of barbarism and desolation, to fall upon so fair and cultivated a spot.

A. D. 880 When Alfred had once more re-united the kingdoms of his ancestors, he found the whole face of things in the most desperate condition; there was no observance of law and order; religion had no force; there was no honest industry; the most squalid poverty and the grossest ignorance had overspread the whole kingdom. Alfred at once enterprized the cure of all these evils. To remedy the disorders in the government, he revived, improved and digested all the Saxon institutions; insomuch that he is generally honoured as the founder of our laws and constitution.*

The shire he divided into hundreds; the hundreds into tythings; every freeman was obliged to be entered 896 into some tything, the members of which were mutually bound for each other for the preservation of the peace, and the avoiding theft and rapine. For securing the liberty of the subject, he introduced the method of giving bail, the most certain fence against the abuses of power. It has been observed that the reigns of weak princes are times favourable to liberty; but the wisest and bravest of all the English princes is the father of their freedom. This great man was even jealous of the privileges of his subjects; and as his whole life was spent in protecting them, his last will breathes the same spirit, declaring that he had left his people as free as their own thoughts. He not only collected with great care a complete body of laws, but he wrote comments on them for the instruction of his judges, who were in

* Historians, copying after one another, and examining little, have attributed to this monarch the institution of juries; an institution which certainly did never prevail amongst the Saxons. They have likewise attributed to him the distribution of England into shires, hundreds and tythings, and of appointing officers over these divisions. But it is very obvious that the shires were never settled upon any regular plan, nor are they the result of any single design. But these reports, however ill imagined, are a strong proof of the high veneration in which this excellent prince has always been held; as it has been thought that the attributing these regulations to him would endear them to the nation. He probably settled them in such an order, and made such reformations in his government, that some of the institutions themselves, which he improved, have been attributed to him; and indeed there was one work of his which serves to furnish us with a higher idea of the political capacity of that great man than any of these fictions. He made a general survey and register of all the property in the kingdom;—who held it, and what it was distinctly; a vast work for an age of ignorance and time of confusion, which has been neglected in more civilised nations, and settled times. It was called the Roll of Winton, and served as the model of a work of the same kind made by William the Conqueror.

general, by the misfortune of the time, ignorant; and if he took care to correct their ignorance, he was rigorous towards their corruption. He inquired strictly into their conduct, he heard appeals in person; he held his wittena-gemotes, or parliaments, frequently; and kept every part of his government in health and vigour.

Nor was he less solicitous for the defence than he had shown himself for the regulation of his kingdom. He nourished with particular care the new naval strength, which he had established; he built forts and castles in the most important posts; he settled beacons to spread an alarm on the arrival of an enemy; and ordered his militia in such a manner that there was always a great power in readiness to march, well appointed and well disciplined. But that a suitable revenue might not be wanting for the support of his fleets and fortifications, he gave great encouragement to trade; which by the piracies on the coasts, and the rapine and injustice exercised by the people within, had long become a stranger to this island.

In the midst of these various and important cares, he gave a peculiar attention to learning, which by the rage of the late wars had been entirely extinguished in his kingdom. "Very few there were (says this monarch) on this side the Humber, that understood their ordinary prayers; or that were able to translate any Latin book into English; so few, that I do not remember even one qualified, to the southward of the Thames, when I began my reign." To cure this deplorable ignorance, he was indefatigable in his endeavours to bring into England men of learning in all branches from every part of Europe; and unbounded in his liberality to them. He enacted by a law, that every person possessed of two hides of land should send their children to school until sixteen. Wisely considering where to put a stop to his love even of the liberal arts, which are only suited to a liberal condition, he enterprized yet a greater design than that of forming the growing generation—to instruct even the grown; enjoining all his earldormen and sheriffs immediately to apply themselves to learning, or to quit their offices. To facilitate these great purposes he made a regular foundation of an university, which with great reason is believed to have been at Oxford. Whatever trouble he took to extend the benefits of learning amongst his subjects, he showed the example himself, and applied to the cultivation of his mind with unparal-

BOOK II. A. D. 896

leled diligence and success. He could neither read nor write at twelve years old; but he improved his time in such a manner that he became one of the most knowing men of his age, in geometry, in philosophy, in architecture, and in music. He applied himself to the improvement of his native language; he translated several valuable works from Latin; and wrote a vast number of poems in the Saxon tongue with a wonderful facility and happiness. He not only excelled in the theory of the arts and sciences, but possessed a great mechanical genius for the executive part; he improved the manner of ship-building; introduced a more beautiful and commodious architecture, and even taught his countrymen the art of making bricks, most of the buildings having been of wood before his time; in a word, he comprehended in the greatness of his mind, the whole of government and all its parts at once; and what is most difficult to human frailty, was at the same time sublime and minute.

Religion, which in Alfred's father was so prejudicial to affairs, without being in him at all inferior in its zeal and fervour, was of a more enlarged and noble kind; far from being a prejudice to his government, it seems to have been the principle that supported him in so many fatigues, and fed like an abundant source his civil and military virtues; to his religious exercises and studies he devoted a full third part of his time. It is pleasant to trace a genius even in its smallest exertions; in measuring and allotting his time for the variety of business he was engaged in. According to his severe and methodical custom, he had a sort of wax candles, made of different colours in different proportions, according to the time he allotted to each particular affair; as he carried these about with him wherever he went, to make them burn evenly, he invented horn lanthorns. One cannot help being amazed that a prince, who lived in such turbulent times, who commanded personally in fifty-four pitched battles, who had so disordered a province to regulate, who was not only a legislator but a judge, and who was continually superintending his armies, his navies, the traffick of his kingdom, his revenues, and the conduct of all his officers, could have bestowed so much of his time on religious exercises and speculative knowledge; but the exertion of all his faculties and virtues seemed to have given a mutual strength to all of them. Thus all historians speak of this prince, whose whole

history was one panegyric; and whatever dark spots of human frailty may have adhered to such a character, they are entirely hid in the splendor of his many shining qualities and grand virtues, that throw a glory over the obscure period in which he lived, and which is for no other reason worthy of our knowledge. The latter part of his reign was molested with new and formidable attempts from the Danes; but they no longer found the country in its former condition; their fleets were attacked; and those that landed, found a strong and regular opposition. There were now fortresses which restrained their ravages, and armies well appointed to oppose them in the field; they were defeated in a pitched battle; and after several desperate marches from one part of the country to the other, every where harrassed and hunted, they were glad to return with half their number, and to leave Alfred in quiet to accomplish the great things he had projected. This prince reigned twenty-seven years, and died at last of a disorder in his bowels, which had afflicted him, without interrupting his designs or souring his temper, during the greatest part of his life.

CHAP. V. A. D. 896 897

CHAP. V.

Succession of Kings from Alfred to Harold.

His son Edward succeeded; though of less learning than his father, he equalled him in his political virtues; he made war with success on the Welsh, the Scots and the Danes, and left his kingdom strongly fortified; and exercised, not weakened, with the enterprizes of a vigorous reign. Because his son Edmund was under age, the crown was set on the head of his illegitimate offspring, Athelstan. His, like the reigns of all the princes of this time, was molested by the continual incursions of the Danes; and nothing but a succession of men of spirit, capacity, and love of their country, which providentially happened at this time, could ward off the ruin of the kingdom. Such Athelstan was; and such was his brother Edmund, who reigned five years with great reputation, but was at length, by an obscure ruffian, assassinated in his own palace. Edred, his brother, succeeded to the

Edward 900 Athelstan 925 Edmund 942 Edred 947

Book II. late monarchy; though he had left two sons, Edwin and Edgar, both were passed by on account of their minority. But on this prince's death, which happened after a troublesome reign of ten years, valiantly supported against continual inroads of the Danes, the crown devolved on Edwin; of whom little can be said, because his reign was short, and he was so embroiled with his clergy that we can take his character only from the monks, who in such a case are suspicious authority. Edgar, the second son of King Edmund, came young to the throne; but he had the happiness to have his youth formed, and his kingdom ruled, by men of experience, virtue and authority. The celebrated Dunstan was his first minister, and had a mighty influence over all his actions; this prelate had been educated abroad, and had seen the world to advantage. As he had great power at court by the superior wisdom of his counsels, so by the sanctity of his life he had great credit with the people, which gave a firmness to the government of his master, whose private character was, in many respects, extremely exceptionable. It was in his reign, and chiefly by the means of his minister, Dunstan, that the monks, who had long prevailed in the opinion of the generality of the people, gave a total overthrow to their rivals, the secular clergy. The secular clergy were at this time for the most part married, and were therefore too near the common modes of mankind to draw a great deal of their respect; their character was supported by a very small portion of learning, and their lives were not such as people wish to see in the clergy. But the monks were unmarried; austere in their lives; regular in their duties; possessed of the learning of the times; well united under a proper subordination; full of art, and implacable towards their enemies. These circumstances, concurring with the dispositions of the king and the designs of Dunstan, prevailed so far, that it was agreed in a council, convened for that purpose, to expel the secular clergy from their livings, and to supply their places with monks throughout the kingdom. Although the partizans of the secular priests were not a few, nor of the lowest class, yet they were unable to withstand the current of the popular desire, strengthened by the authority of a potent and respected monarch; however, there was a seed of discontent sown on this occasion, which grew up afterwards to the mutual destruction of all the parties. During the whole reign

A. D. Edwin. 957

Edgar. 959

of Edgar, as he had secured the most popular part of the clergy, and with them the people, in his interests, there was no internal disturbance; there was no foreign war, because this prince was always ready for war. But he principally owed his security to the care he took of his naval power, which was much greater and better regulated than that of any English monarch before him. He had three fleets always equipped, one of which annually sailed round the island; thus the Danes, the Scots, the Irish and Welsh were kept in awe. He assumed the title of King of all Albion. His court was magnificent, and much frequented by strangers. His revenues were in excellent order; and no prince of his time supported the royal character with more dignity. CHAP. V. A. D.

Edgar had two wives, Elflada and Elfrida; by the first he had a son called Edward. The second bore him one called Etheldred. On Edgar's death, Edward, in the usual order of succession, was called to the throne; but Elfrida caballed in favour of her son; and finding it impossible to set him up in the life of his brother, she murdered him with her own hands in her castle of Corfe, whither he had retired to refresh himself, wearied with hunting. Etheldred who, by the crimes of his mother, ascended a throne sprinkled with his brother's blood, had a part to act which exceeded the capacity that could be expected in one of his youth and inexperience. The partizans of the secular clergy, who were kept down by the vigour of Edgar's government, thought this a fit time to renew their pretensions. The monks defended themselves in their possession; there was no moderation on either side, and the whole nation joined in these parties. The murder of Edward threw an odious stain on the king, though he was wholly innocent of that crime. There was a general discontent; and every corner was full of murmurs and cabals. In this state of the kingdom it was equally dangerous to exert the fullness of the sovereign authority, or to suffer it to relax. The temper of the king was most inclined to the latter method, which is of all things the worst. A weak government, too easy, suffers evils to grow, which often make the most rigorous and illegal proceedings necessary. Through an extreme lenity it is on some occasions tyrannical. This was the condition of Etheldred's nobility, who, by being permitted every thing, were never contented.

Edward 975

Etheldred. 979

Thus all the principal men held a sort of factious and

BOOK II. independent authority; they despised the king; they oppressed the people, and they hated one another. The Danes, in every part of England but Wessex, as numerous as the English themselves, and in many parts more numerous, were ready to take advantage of these disorders; and waited with impatience some new attempt from abroad, that they might rise in favour of the invaders. They were not long without such an occasion; the Danes pour in almost upon every part at once, and distract the defence which the weak prince was preparing to make.

A. D.

In those days of wretchedness and ignorance, when all the maritime parts of Europe were attacked by these formidable enemies at once, they never thought of entering into any alliance against them; they equally neglected the other obvious method to prevent their incursions, which was to carry the war into the invader's country.

What aggravated these calamities, the nobility, mostly disaffected to the king, and entertaining very little regard to their country, made, some of them, a weak and
987 cowardly opposition to the enemy; some actually betrayed their trust; some even were found, who undertook the trade of piracy themselves. It was in this condition that Edric, Duke of Mercia, a man of some ability, but light, inconstant, and utterly devoid of all principle, proposed to buy a peace from the Danes. The general weakness and consternation disposed the king and people
991 to take this pernicious advice. At first 10,000*l.* was given to the Danes, who retired with this money and the rest of their plunder. The English were now, for the first time, taxed to supply this payment. The imposition was called Danegelt, not more burthensome in the thing than scandalous in the name. The scheme of purchasing peace not only gave rise to many internal hardships; but, whilst it weakened the kingdom, it inspired such a desire of invading it to the enemy, that Sweyn, king of Denmark, came in person soon after, with a prodigious fleet and army. The English, having once found the method of diverting the storm by an inglorious bargain, could not bear to think of any other way of resistance. A greater sum, 48,000*l.* was now paid, which the Danes accepted with pleasure, as they could by this means exhaust their enemies, and enrich themselves with little danger or trouble. With very short intermissions they still returned, continually increasing in their demands; in a

they exterted upwards of 160,000*l.* from the English, besides an annual tribute of 48,000*l.* The country was wholly exhausted both of money and spirit. The Danes in England, under the protection of the foreign Danes, committed a thousand insolencies; and so infatuated with stupidity and baseness were the English at this time, that they employed hardly any other soldiers for their defence. CHAP. V. A. D. 991

In this state of shame and misery, their sufferings suggested to them a design rather desperate than brave. They resolved on a massacre of the Danes; some authors 1002 say, that in one night the whole race was cut off. Many, probably all the military men, were so destroyed. But this massacre, injudicious as it was cruel, was certainly not universal; nor did it serve any other or better end than to exasperate those of the same nation abroad, who the next year landed in England with a powerful army to revenge it, and committed outrages even beyond the usual tenor of the Danish cruelty. There was in Eng- 1003 land no money left to purchase a peace, nor courage to wage a successful war; and the king of Denmark, Sweyn, a prince of capacity, at the head of a large body of brave and enterprizing men, soon mastered the whole kingdom, except London. Etheldred, abandoned by fortune and his subjects, was forced to fly into Normandy.

As there was no good order in the English affairs, though continually alarmed, they were always surprized; they were only roused to arms by the cruelty of the enemy; and they were only formed into a body by being driven from their homes: so that they never made a resistance until they seemed to be entirely conquered. This may serve to account for the frequent sudden reductions of the island, and the frequent renewals of their fortune when it seemed the most desperate. Sweyn, in the midst of his victories, dies; and, though succeeded by his son Canute, who inherited his father's resolution, their affairs were thrown into some disorder by this accident. The English were encouraged by it. Etheldred was recalled, and the Danes retired out of the kingdom; but it was only to return the next year with a greater and better appointed force. Nothing seemed able to oppose them. The king dies. A great part of the land was surrendered, without resistance, to Canute: Edmund, the eldest son of Etheldred, supported, how- Edmund Ironside. ever, the declining hopes of the English for some time; 1016

BOOK II. A. D.

in three months he fought three victorious battles; he attempted a fourth, but lost it by the base desertion of Edric, the principal author of all these troubles. It is common with the conquered side to attribute all their misfortunes to the treachery of their own party. They choose to be thought subdued by the treachery of their friends rather than the superior bravery of their enemies. All the old historians talk in this strain; and it must be acknowledged that all adherents to a declining party have many temptations to infidelity.

Edmund, defeated, but not discouraged, retreated to the Severn, where he recruited his forces. Canute followed at his heels. And now the two armies were drawn up which were to decide the fate of England; when it was proposed to determine the war by a single combat between the two kings. Neither was unwilling; the Isle of Alney in the Severn was chosen for the lists; Edmund had the advantage by the greatness of his strength, Canute by his address; for when Edmund had so far prevailed as to disarm him, he proposed a parley, in which he persuaded Edmund to a peace, and to a division of the kingdom. Their armies accepted the agreement; and both kings departed in a seeming friendship. But Edmund died soon after, with a probable suspicion of being murdered by the instruments of his associate in the empire.

The Danish race.

Canute. 1016

Canute, on this event, assembled the states of the kingdom, by whom he was acknowledged king of all England. He was a prince truly great; for having acquired the kingdom by his valour, he maintained and improved it by his justice and clemency. Choosing rather to rule by the inclination of his subjects than the right of conquest, he dismissed his Danish army, and committed his safety to the laws. He re-established the order and tranquillity, which so long a series of bloody wars had banished. He revived the ancient statutes of the Saxon princes; and governed through his whole reign with such steadiness and moderation, that the English were much happier under this foreign prince than they had been under their natural kings. Canute, though the beginning of his life was stained with those marks of violence and injustice which attend conquest, was remarkable in his latter end for his piety. According to the mode of that time, he made a pilgrimage to Rome, with a view to expiate the crimes which paved his way to the throne; but

he made a good use of this peregrination, and returned full of the observations he had made in the country through which he passed, which he turned to the benefit of his extensive dominions. They comprehended England, Denmark, Norway, and many of the countries which lie upon the Baltic. Those he left, established in peace and security, to his children. The fate of his northern possessions is not of this place. England fell to his son Harold, though not without much competition in favour of the sons of Edmund Ironside; while some contended for the right of the sons of Etheldred, Alfred and Edward. Harold inherited none of the virtues of Canute; he banished his mother, Emma, murdered his half brother, Alfred, and died, without issue, after a short reign, full of violence, weakness, and cruelty.

CHAP. V.

A. D. 1035

Harold I.

His brother, Hardicanute, who succeeded him, resembled him in his character; he committed new cruelties and injustices in revenging those which his brother had committed, and he died after a yet shorter reign. The Danish power, established with so much blood, expired of itself; and Edward, the only surviving son of Etheldred, then an exile in Normandy, was called to the throne by the unanimous voice of the kingdom.

Hardicanute. 1039

The Saxon line restored.

This prince was educated in a monastery, where he learned piety, continence, and humility; but nothing of the art of government. He was innocent and artless, but his views were narrow, and his genius contemptible. The character of such a prince is not, therefore, what influences the government, any further than as it puts it in the hands of others. When he came to the throne, Goodwin, earl of Kent, was the most popular man in England; he possessed a very great estate, an enterprizing disposition, and an eloquence beyond the age he lived in; he was arrogant, imperious, assuming, and of a conscience which never put itself in the way of his interest. He had a considerable share in restoring Edward to the throne of his ancestors; and by this merit, joined to his popularity, he for some time directed every thing according to his pleasure. He intended to fortify his interest by giving in marriage to the king his daughter, a lady of great beauty, great virtue, and an education beyond her sex. Goodwin had, however, powerful rivals in the king's favour. This monarch, who possessed many of the private virtues, had a grateful remembrance of his favourable reception in Normandy; he caressed the

Edward the Confessor. 1041

BOOK II. A. D. 1041

people of that country, and promoted several to the first places, ecclesiastical and civil, in his kingdom. This begot an uneasiness in all the English; but Earl Goodwin was particularly offended. The Normans, on the other hand, accused Goodwin of a design on the crown, the justice of which imputation the whole tenor of his conduct evinced sufficiently. But as his cabals began to break into action before they were in perfect ripeness for it, the Norman party prevailed, and Goodwin was banished. This man was not only very popular at home by his generosity and address, but he found means to engage even foreigners in his interests. Baldwin, earl of Flanders, gave him a very kind reception. By his assistance, Goodwin fitted out a fleet, hired a competent force, sailed to England, and having near Sandwich deceived the king's navy, he presented himself at London before he was expected. The king made ready as great a force as the time would admit to oppose him. The gallies of Edward and Goodwin met on the Thames; but such was the general favour to Goodwin, such the popularity of his cause, that the king's men threw down their arms, and refused to fight against their countrymen in favour of strangers. Edward was obliged to treat with his own subjects; and, in consequence of this treaty, to dismiss the Normans, whom he believed to be the best attached to his interests. Goodwin used the power, to which he was restored, to gratify his personal revenge; showing no mercy to his enemies. Some of his sons behaved in the

1053

most tyrannical manner. The great lords of the kingdom envied and hated a greatness which annihilated the royal authority, eclipsed them, and oppressed the people; but Goodwin's death soon after quieted for a while their murmurs. The king, who had the least share in the transactions of his own reign, and who was of a temper not to perceive his own insignificance, begun in his old age to

1066

think of a successor. He had no children; for some weak reasons of religion or personal dislike he had never cohabited with his wife. He sent for his nephew Edward, the son of Edmund Ironside, out of Hungary, where he had taken refuge; but he died soon after he came to England, leaving a son called Edgar Atheling. The king himself, irresolute in so momentous an affair, died without making any settlement. His reign was properly that of his great men, or rather of their factions. All of it that was his own was good. He was careful of the pri-

vileges of his subjects, and took care to have a body of the Saxon laws, very favourable to them, digested and enforced. He remitted the heavy imposition called Danegeld, amounting to 40,000*l.* a year, which had been constantly collected after the occasion had ceased; he even repaid to his subjects what he found in the treasury at his accession. In short, there is little in his life that can call his title to sanctity in question; though he can never be reckoned among the great kings.

CHAP. VI. A. D. 1066

CHAP. VI.

Harold II.—Invasion of the Normans.—Account of that People, and of the state of England at the time of the Invasion.

Though Edgar Atheling had the best title to the succession, yet Harold, the son of Earl Goodwin, on account of the credit of his father, and his own great qualities, which supported and extended the interest of his family, was by the general voice set upon the throne. The right of Edgar, young and discovering no great capacity, gave him little disturbance in comparison of the violence of his own brother, Tosti, whom, for his infamous oppression, he had found himself obliged to banish. This man, who was a tyrant at home, and a traitor abroad, insulted the maritime parts with a piratical fleet, whilst he incited all the neighbouring princes to fall upon his country. Harold Harfager, king of Norway, after the conquest of the Orkneys, with a powerful navy hung over the coasts of England. But nothing troubled Harold so much as the pretensions and the formidable preparation of William duke of Normandy, one of the most able, ambitious, and enterprizing men of that age. We have mentioned the partiality of King Edward to the Normans, and the hatred he bore to Goodwin and his family. The duke of Normandy, to whom Edward had personal obligations, had taken a tour into England, and neglected no means to improve these dispositions to his own advantage. It is said that he then received the fullest assurances of being appointed to the succession, and that Harold himself had been sent soon after into Normandy to settle whatever related to it. This is an obscure transaction; and would,

Harold II. 1066

BOOK II. A. D. 1066

if it could be cleared up, convey but little instruction. So that whether we believe or not that William had engaged Harold by a solemn oath to secure him the kingdom, we know that he afterwards set up a will of King Edward in his favour, which, however, he never produced, and probably never had to produce. In these delicate circumstances Harold was not wanting to himself. By the most equitable laws, and the most popular behaviour, he sought to secure the affections of his subjects; and he succeeded so well, that when he marched against the king of Norway, who had invaded his kingdom and taken York, without difficulty he raised a numerous army of gallant men, zealous for his cause and their country. He obtained a signal and decisive victory over the Norwegians. The King Harfager, and the traitor Tosti, who had joined him, were slain in the battle; and the Norwegians were forced to evacuate the country. Harold had however but little time to enjoy the fruits of his victory.

Scarce had the Norwegians departed, when William duke of Normandy landed in the southern part of the kingdom with an army of sixty thousand chosen men, and struck a general terror through all the nation, which was well acquainted with the character of the commander, and the courage and discipline of his troops.

The Normans were the posterity of those Danes, who had so long and so cruelly harassed the British islands and the shore of the adjoining continent. In the days of King Alfred, a body of these adventurers, under their leader, Rollo, made an attempt upon England; but so well did they find every spot defended by the vigilance and bravery of that great monarch, that they were compelled to retire. Beaten from these shores, the stream of their impetuosity bore towards the northern parts of France, which had been reduced to the most deplorable condition by their former ravages. Charles the Simple then sat on the throne of that kingdom; unable to resist this torrent of barbarians, he was obliged to yield to it; he agreed to give up to Rollo the large and fertile province of Neustria, to hold of him as his feudatory. This province, from the new inhabitants, was called Normandy. Five princes succeeded Rollo, who maintained with great bravery, and cultivated with equal wisdom, his conquests. The ancient ferocity of this people was a little softened by their settlement; but the bravery, which had

made the Danes so formidable, was not extinguished in the Normans, nor the spirit of enterprize. Not long before this period, a private gentleman of Normandy, by his personal bravery, had acquired the kingdom of Naples. Several others followed his fortunes, who added Sicily to it. From one end of Europe to the other the Norman name was known, respected and feared. Robert, the sixth duke of Normandy, to expiate some crime which lay heavy upon his conscience, resolved, according to the ideas of that time, upon a pilgrimage to Jerusalem. It was in vain that his nobility, whom he had assembled to notify his resolution to them, represented to him the miserable state to which his country would be reduced, abandoned by its prince, and uncertain of a legal successor. The duke was not to be moved from his resolution, which appeared but the more meritorious from the difficulties which attended it. He presented to the states, William, then an infant, born of an obscure woman, whom, notwithstanding, he doubted not to be his son; him he appointed to succeed; him he recommended to their virtue and loyalty; and then solemnly resigning the government in his favour, he departed on the pilgrimage, from whence he never returned. The States, hesitating some time between the mischiefs that attend the allowing an illegitimate succession, and those which might arise from admitting foreign pretensions, thought the former the least prejudicial, and accordingly swore allegiance to William; but this oath was not sufficient to establish a right so doubtful. The dukes of Burgundy and Britanny, as well as several Norman noblemen, had specious titles. The endeavours of all these disquieted the reign of the young prince with perpetual troubles. In these troubles he was formed early in life to vigilance, activity, secrecy, and a conquest over all those passions, whether bad or good, which obstruct the way to greatness. He had to contend with all the neighbouring princes; with the seditions of a turbulent and unfaithful nobility, and the treacherous protection of his feudal lord, the king of France. All of these in their turns, sometimes all of these together, distressed him. But with the most unparalleled good fortune and conduct he overcame all opposition, and triumphed over every enemy; raising his power and reputation above that of all his ancestors as much as he was exalted by his bravery above the princes of his own time.

BOOK II. A. D.

Such was the prince, who, on a pretended claim from the will of King Edward, supported by the common and popular pretence of punishing offenders and redressing grievances, landed at Pevensey in Sussex, to contest the crown with Harold. Harold had no sooner advice of his landing, than he advanced to meet him with all possible diligence; but there did not appear in his army, upon this occasion, the same unanimity and satisfaction which animated it on its march against the Norwegians. An ill-timed economy in Harold, which made him refuse to his soldiers the plunder of the Norwegian camp, had created a general discontent; several deserted, and the soldiers who remained, followed heavily a leader under whom there was no hope of plunder, the greatest incitement of the soldiery. Notwithstanding this ill disposition, Harold still urged forward, and by forced marches, advanced within seven miles of the enemy. The Norman, on his landing, is said to have sent away his ships, that his army might have no way of safety but in conquest; yet had he fortified his camp, and taken every prudent precaution that so considerable an enterprize should not be reduced to a single effort of despair. When the armies, charged with the decision of so mighty a contest, had approached each other, Harold paused awhile. A great deal depended on his conduct at this critical time. The most experienced in the council of war, who knew the condition of their troops, were of opinion, that the engagement ought to be deferred; that the country ought to be wasted; that as the winter approached, the Normans would in all probability be obliged to retire of themselves; that if this should not happen, the Norman army was without resources; whilst the English would be every day considerably augmented, and might attack their enemy at a time and manner which might make their success certain. To all these reasons nothing was opposed but a false point of honour, and a mistaken courage in Harold, who urged his fate, and resolved on an engagement. The Norman, as soon as he perceived that the English were determined on a battle, left his camp to post himself in an advantageous situation, in which his whole army remained the night which preceded the action.

This night was spent in a manner which prognosticated the event of the following day. On the part of the Normans, it was spent in prayer, and in a cool and steady

preparation for the engagement; on the side of the English, in riot and a vain confidence, that neglected all the necessary preparations. The two armies met in the morning; from seven to five the battle was fought with equal vigour; until at last the Norman army pretending to break in confusion, a stratagem to which they had been regularly formed, the English, elated with success, suffered that firm order, in which their security consisted, to dissipate; which when William observed, he gave the signal to his men to regain their former disposition, and fall upon the English, broken and dispersed. Harold in this emergency did every thing which became him, every thing possible to collect his troops, and to renew the engagement; but whilst he flew from place to place, and in all places restored the battle, an arrow pierced his brain; and he died a king in a manner worthy of a warrior. The English immediately fled; the rout was total, and the slaughter prodigious.

The consternation which this defeat and the death of Harold produced over the kingdom, was more fatal than the defeat itself. If William had marched directly to London, all contest had probably been at an end; but he judged it more prudent to secure the sea-coast, to make way for reinforcements; distrusting his fortune in his success more than he had done in his first attempts. He marched to Dover, where the effect of his victory was such, that the strong castle there surrendered without resistance. Had this fortress made any tolerable defence, the English would have had leisure to rouse from their consternation, and plan some rational method for continuing the war; but now the conqueror was on full march to London, whilst the English were debating concerning the measures they should take, and doubtful in what manner they should fill the vacant throne. However, in this emergency it was necessary to take some resolution. The party of Edgar Atheling prevailed: and he was owned king by the city of London, which even at this time was exceedingly powerful, and by the greatest part of the nobility then present. But his reign was of a short duration. William advanced by hasty marches; and as he approached, the perplexity of the English redoubled; they had done nothing for the defence of the city. They had no reliance on their new king, they suspected one another; there was no authority, no order, no counsel; a confused and ill-sorted as-

BOOK II. A. D.

sembly of unwarlike people, of priests, burghers and nobles, confounded with them in the general panic, struck down by the consternation of the late defeat, and trembling under the bolts of the papal excommunication, were unable to plan any method of defence. Insomuch, that when he had passed the Thames and drew near to London, the clergy, the citizens, and the greater part of the nobles, who had so lately set the crown on the head of Edgar, went out to meet him: they submitted to him, and having brought him in triumph to Westminster, he was there solemnly crowned king of England. The whole nation followed the example of London; and one battle gave England to the Normans, which had cost the Romans, the Saxons, and Danes, so much time and blood to acquire.

At first view it is very difficult to conceive how this could have happened to a powerful nation, in which it does not appear that the conqueror had one partizan. It stands a single event in history, unless, perhaps, we may compare it with the reduction of Ireland some time after by Henry the Second. An attentive consideration of the state of the kingdom at that critical time may perhaps, in some measure, lay open to us the cause of this extraordinary revolution.

The nobility of England, in which its strength consisted, was much decayed. Wars and confiscations, but above all, the custom of gavelkind, had reduced that body very low. At the same time some few families had been raised to a degree of power unknown in the ancient Saxon times, and dangerous in all. Large possessions, and a larger authority, were annexed to the offices of the Saxon magistrates, whom they called aldermen. This authority, in their long and bloody wars with the Danes, it was found necessary to increase, and often to increase beyond the ancient limits. Aldermen were created for life; they were then frequently made hereditary; some were vested with a power over others; and at this period we begin to hear of dukes, who governed over several shires, and had many aldermen subject to them. These officers found means to turn the royal bounty into an instrument of becoming independent of its authority. Too great to obey, and too little to protect, they were a dead weight upon the country. They began to cast an eye on the crown, and distracted the nation by cabals to compass their designs. At the same

time they nourished the most terrible feuds amongst themselves. The feeble government of Edward established these abuses. He could find no method of humbling one subject grown too great, but by aggrandizing in the same excessive degree some others. Thus he endeavoured to balance the power of Earl Goodwin by exalting Leofric, duke of Mercia, and Seward, duke of Northumberland, to an extravagant greatness. The consequence was this; he did not humble Goodwin, but raised him potent rivals. When therefore this prince died, the lawful successor to the crown, who had nothing but right in his favour, was totally eclipsed by the splendour of the great men who had adorned themselves with the spoils of royalty. The throne was now the prize of faction; and Harold, the son of Goodwin, having the strongest faction, carried it. By this success the opposite parties were inflamed with a new occasion of rancour and animosity; and an incurable discontent was raised in the minds of Edwin and Morcar, the sons of Duke Leofric, who inherited their father's power and popularity; but this animosity operated nothing in favour of the legitimate heir, though it weakened the hands of the governing prince.

The death of Harold was far from putting an end to these evils; it rather unfolded more at large the fatal consequences of the ill measures which had been pursued. Edwin and Morca set on foot once more their practices to obtain the crown; and when they found themselves baffled, they retired in discontent from the councils of the nation; withdrawing thereby a very large part of its strength and authority. The council of the nation, which was formed of the clashing factions of a few great men (for the rest were nothing) divided, disheartened, weakened, without head, without direction, dismayed by a terrible defeat, submitted, because they saw no other course, to a conqueror, whose valour they had experienced, and who had hitherto behaved with great appearances of equity and moderation. As for the grandees, they were contented rather to submit to this foreign prince, than to those whom they regarded as their equals and enemies.

With these causes other strong ones concurred. For near two centuries the continual and bloody wars with the Danes had exhausted the nation; the peace, which

BOOK II. A. D.

for a long time they were obliged to buy dearly, exhausted it yet more; and it had not sufficient leisure, nor sufficient means, of acquiring wealth, to yield at this time any extraordinary resources. The new people, which after so long a struggle had mixed with the English, had not yet so thoroughly incorporated with the ancient inhabitants, that a perfect union might be expected between them; or that any strong uniform national effort might have resulted from it. Besides, the people of England were the most backward in Europe in all improvements, whether in military or in civil life. Their towns were meanly built, and more meanly fortified; there was scarcely any thing that deserved the name of a strong place in the kingdom; there was no fortress which, by retarding the progress of a conqueror, might give the people an opportunity of recalling their spirits and collecting their strength. To these we may add, that the pope's approbation of William's pretensions gave them great weight, especially amongst the clergy; and that this disposed, and reconciled to submission, a people whom the circumstances we have mentioned had before driven to it.

CHAP. VII.

Of the Laws and Institutions of the Saxons.

BEFORE we begin to consider the laws and constitutions of the Saxons, let us take a view of the state of the country, from whence they are derived, as it is pourtrayed in ancient writers. This view will be the best comment on their institutions. Let us represent to ourselves a people without learning, without arts, without industry, solely pleased and occupied with war, neglecting agriculture, abhorring cities, and seeking their livelihood only from pasturage and hunting through a boundless range of morasses and forests. Such a people must necessarily be united to each other by very feeble bonds; their ideas of government will necessarily be imperfect, their freedom and their love of freedom great. From these dispositions it must happen of course, that the intention of investing one person, or a few, with the

whole powers of government, and the notion of deputed authority or representation, are ideas that never could have entered their imaginations. When, therefore, amongst such a people, any resolution of consequence was to be taken, there was no way of effecting it but by bringing together the whole body of the nation, that every individual might consent to the law, and each reciprocally bind the other to the observation of it. This polity, if so it may be called, subsists still in all its simplicity in Poland.

But as in such a society, as we have mentioned, the people cannot be classed according to any political regulations, great talents have a more ample sphere in which to exert themselves, than in a close and better formed society. These talents must therefore have attracted a great share of the public veneration, and drawn a numerous train after the person distinguished by them, of those who sought his protection, or feared his power, or admired his qualifications, or wished to form themselves after his example, or, in fine, of whoever desired to partake of his importance by being mentioned along with him. These the ancient Gauls, who nearly resembled the Germans in their customs, called Ambacti; the Romans called them Comites; over these their chief had a considerable power, and the more considerable, because it depended upon influence rather than institution; influence amongst so free a people being the principal source of power. But this authority, great as it was, never could, by its very nature, be stretched to despotism; because any despotic act would have shocked the only principle by which that authority was supported, the general good opinion. On the other hand, it could not have been bounded by any positive laws; because laws can hardly subsist amongst a people who have not the use of letters. It was a species of arbitrary power, softened by the popularity from whence it arose. It came from popular opinion, and by popular opinion it was corrected.

If people, so barbarous as the Germans, have no laws, they have yet customs that serve in their room; and these customs operate amongst them better than laws, because they become a sort of nature both to the governors and the governed. This circumstance in some measure removed all fear of the abuse of authority; and induced

BOOK II. A. D.

the Germans to permit their chiefs* to decide upon matters of lesser moment, their private differences, for so Tacitus explains the *minores res;* these chiefs were a sort of judges, but not legislators, nor do they appear to have had a share in the superior branches of the executive part of government; the business of peace and war, and every thing of a public nature, being determined, as we have before remarked, by the whole body of the people, according to a maxim general among the Germans, that what concerned all, ought to be handled by all. Thus were delineated the faint and incorrect outlines of our constitution, which has since been so nobly fashioned and so highly finished. This fine system, says Montesquieu, was invented in the woods; but whilst it remained in the woods, and for a long time after, it was far from being a fine one; no more indeed than a very imperfect attempt at government, a system for a rude and barbarous people, calculated to maintain them in their barbarity.

The ancient state of the Germans was military; so that the orders into which they were distributed, their subordination, their courts, and every part of their government, must be deduced from an attention to a military principle.

The ancient German people, as all the other northern tribes, consisted of freemen and slaves; the freemen professed arms, the slaves cultivated the ground. But men were not allowed to profess arms at their own will, nor until they were admitted to that dignity by an established order, which at a certain age separated the boys from men. For when a young man approached to virility,† he was not yet admitted as a member of the state, which was quite military, until he had been invested with a spear in the public assembly of his tribe; and then he was adjudged proper to carry arms, and also to assist in the public deliberations, which were always held armed.‡ This spear he generally received from the hand of some old and respected chief, under§ whom he commonly entered himself, and was admitted among his followers. No man could stand out as an independent individual, but must have enlisted in one of these military

* They had no other nobility; yet several families amongst them were considered as noble.

† Arma sumere non ante cuiquam moris, quàm civitas suffecturum probaverit.—Tacitus de mor. Germ. 13.

‡ Nihil autem neque publicæ neque privatæ rei nisi armati agunt. Id. ibid.

§ Cæteri robustioribus ac jam pridem probatis aggregantur. Id. ibid.

fraternities; and as soon as he had so enlisted, immediately he became bound to his leader in the strictest dependence, which was confirmed by an oath,* and to his brethren in a common vow for their mutual support in all dangers, and for the advancement and the honour of their common chief. This chief was styled senior, lord, and the like terms, which marked out a superiority in age and merit; the followers were called ambacti, comites, leuds, vassals, and other terms; marking submission and dependence. This was the very first origin of civil, or rather military government, amongst the ancient people of Europe; and it arose from the connexion that necessarily was created between the person who gave the arms, or knighted the young man, and him that received them; which implied that they were to be occupied in his service, who originally gave them. These principles it is necessary strictly to attend to, because they will serve much to explain the whole course both of government and real property, wherever the German nations obtained a settlement; the whole of their government depending for the most part upon two principles in our nature; ambition, that makes one man desirous, at any hazard or expense, of taking the lead amongst others; and admiration, which makes others equally desirous of following him, from the mere pleasure of admiration, and a sort of secondary ambition, one of the most universal passions among men; these two principles, strong both of them in our nature, create a voluntary inequality and dependence. But amongst equals in condition there could be no such bond, and this was supplied by confederacy; and as the first of these principles created the senior and the knight, the second produced the *conjurati fratres*, which, sometimes as a more extensive, sometimes as a stricter bond, is perpetually mentioned in the old laws and histories.

The relation between the lord and the vassal produced another effect; that the leader was obliged to find sustenance for his followers; and to maintain them at his table or give them some equivalent in order to their maintenance. It is plain, from these principles, that this service on one hand, and this obligation to support on the other, could not have originally been hereditary, but must have been entirely in the free choice of the parties.

* Illum defendere, tueri, sua quoque fortia facta ejus gloriæ assignare præcipuum sacramentum est. Id. 14.

BOOK II. A. D.

But it is impossible that such a polity could long have subsisted by election alone. For in the first place that natural love, which every man has to his own kindred, would make the chief willing to perpetuate the power and dignity he acquired in his own blood; and for that purpose, even during his own life, would raise his son, if grown up, or his collaterals, to such a rank, as they should find it only necessary to continue their possession upon his death. On the other hand, if a follower was cut off in war, or fell by natural course, leaving his offspring destitute, the lord could not so far forget the services of his vassal as not to continue his allowance to his children; and these again growing up, from reason and gratitude, could only take their knighthood at his hands, from whom they had received their education; and thus, as it could seldom happen but that the bond either on the side of the lord, or dependant, was perpetuated, some families must have been distinguished by a long continuance of this relation, and have been therefore looked upon in an honourable light from that only circumstance, from whence honour was derived in the northern world. Thus nobility was seen in Germany; and in the earliest Anglo-Saxon times, some families were distinguished by the title of Ethelings, or of noble descent. But this nobility of birth was rather a qualification for the dignities of the state, than an actual designation to them. The Saxon ranks are chiefly designed to ascertain the quantity of the composition for personal injuries against them.

But though this hereditary relation was created very early, it must not be mistaken for such a regular inheritance as we see at this day; it was an inheritance only according to the principles from whence it was derived; by them it was modified. It was originally a military connexion; and if a father left his son under a military age, so as that he could neither lead nor judge his people, nor qualify the young men who came up under him to take arms—in order to continue the cliental bond, and not to break up an old and strong confederacy, and thereby disperse the tribe; who should be pitched upon to head the whole, but the worthiest of blood of the deceased leader? he that ranked next to him in his life:* and this is tanistry, which is a succession made up of inheritance

* Deputed authority, guardianship, &c. not known to the northern nations; they gained this idea by intercourse with the Romans.

and election; a succession in which blood is inviolably regarded so far as it was consistent with military purposes. It was thus that our kings succeeded to the throne throughout the whole time of the Anglo-Saxon empire. The first kings of the Franks succeeded in the same manner, and without all doubt the succession of all the inferior chieftains was regulated by a similar law. Very frequent examples occur in the Saxon times, where the son of the deceased king, if under age, was entirely passed over, and his uncle, or some remoter relation, raised to the crown; but there is not a single instance where the election has carried it out of the blood. So that in truth the controversy, which has been managed with such heat, whether in the Saxon times the crown was hereditary or elective, must be determined, in some degree, favourably for the litigants on either side; for it was certainly both hereditary and elective, within the bounds which we have mentioned. This order prevailed in Ireland, where the northern customs were retained some hundreds of years after the rest of Europe had in a great measure receded from them. Tanistry continued in force there until the beginning of the last century. And we have greatly to regret the narrow notions of our lawyers, who abolished the authority of the Brehon law, and at the same time kept no monuments of it; which if they had done, there is no doubt but many things of great value towards determining many questions relative to the laws, antiquities, and manners of this and other countries, had been preserved. But it is clear, though it has not been, I think, observed, that the ascending collateral branch was much regarded amongst the ancient Germans, and even preferred to that of the immediate possessor, as being, in case of an accident arriving to the chief, the presumptive heir, and him on whom the hope of the family was fixed; and this is upon the principles of tanistry; and the rule seems to have taken such deep root, as to have much influenced a considerable article of our feudal law. For what is very singular, and, I take it, otherwise unaccountable, a collateral warranty bound even without any descending assets, where the lineal did not, unless something descended; and this subsisted invariably in the law until this century.

Thus we have seen the foundation of the northern government, and the orders of their people, which consisted of dependence and confederacy; that the principal

BOOK II. A. D.

end of both was military; that protection and maintenance were due on the part of the chief, obedience on that of the follower; that the followers should be bound to each other as well as to the chief; that this headship was not at first hereditary, but that it continued in the blood by an order of its own, called tanistry.

All these unconnected and independent parts were only linked together by a common council; and here religion interposed. Their priests, the Druids, having a connexion throughout each state, united it. They called the assembly of the people; and here their general resolutions were taken; and the whole might rather be called a general confederacy than a government. In no other bonds, I conceive, were they united before they quitted Germany. In this ancient state we know them from Tacitus. Then follows an immense gap, in which undoubtedly some changes were made by time; and we hear little more of them, until we find them christians and makers of written laws.

In this interval of time the origin of kings may be traced out. When the Saxons left their own country in search of new habitations, it must be supposed that they followed their leaders, whom they so much venerated at home; but as the wars, which made way for their establishment, continued for a long time, military obedience made them familiar with a stricter authority. A subordination too became necessary among the leaders of each band of adventurers: and being habituated to yield an obedience to a single person in the field, the lustre of his command and the utility of the institution easily prevailed upon them to suffer him to form the band of their union, in time of peace, under the name of king. But the leader neither knew the extent of the power he received, nor the people of that which they bestowed. Equally unresolved were they about the method of perpetuating it; sometimes filling the vacant throne by election without regard to, but more frequently regarding, the blood of the deceased prince; but it was late before they fell into any regular plan of succession, if ever the Anglo-Saxons attained it. Thus their polity was formed slowly; the prospect clears up by little and little; and this species of an irregular republic we see turned into a monarchy as irregular. It is no wonder, that the advocates for the several parties among us find something to favour their several notions

in the Saxon government, which was never supported by any fixed or uniform principle. CHAP. VII. A. D.

To comprehend the other parts of the government of our ancestors, we must take notice of the orders into which they were classed. As well as we can judge in so obscure a matter, they were divided into nobles or gentlemen; freeholders; freemen, that were not freeholders; and slaves. Of these last we have little to say, as they were nothing in the state. The nobles were called thanes or servants. It must be remembered, that the German chiefs were raised to that honourable rank by those qualifications which drew after them a numerous train of followers and dependants.* If it was honourable to be followed by a numerous train, so it was honourable in a secondary degree to be a follower of a man of consideration; and this honour was the greater in proportion to the quality of the chief, and to the nearness of the attendance on his person. When a monarchy was formed, the splendour of the crown naturally drowned all the inferior honours; and the attendants on the person of the king were considered as the first in rank, and derived their dignity from their service. Yet as the Saxon government had still a large mixture of the popular, it was likewise requisite, in order to raise a man to the first rank of thanes, that he should have a suitable attendance and sway amongst the people. To support him in both of these, it was necessary that he should have a competent estate. Therefore, in this service of the king, this attendance on himself, and this estate to support both, the dignity of a thane consisted. I understand here a thane of the first order.

Every thane, in the distribution of his lands, had two objects in view; the support of his family, and the maintenance of his dignity. He therefore retained in his own hands a parcel of land, near his house, which in the Saxon times was called inland, and afterwards his demesne; which served to keep up his hospitality; and this land was cultivated either by slaves, or by the poorer sort of people, who held lands of him by the performance of this service. The other portion of his estate he either gave for life or lives to his followers, men of a liberal condition, who served the greater thane, as he himself served the king. They were called under thanes,

* Jud. Civ. Lund. apud Wilk. post p. 68.

BOOK II. A. D.

or, according to the language of that time, Theoden.* They served their lord in all public business; they followed him in war; and they sought justice in his court in all their private differences. These may be considered as freeholders of the better sort, or indeed a sort of lesser gentry; therefore, as they were not the absolute dependants, but in some measure the peers of their lord, when they sued in his court, they claimed the privilege of all the German freemen, the right of judging one another; the lord's steward was only the register. This domestic court, which continued in full vigour for many ages, the Saxons called Hallmote, from the place, in which it was held; the Normans, who adopted it, named it a court baron. This court had another department, in which the power of the lord was more absolute; from the most ancient times the German nobility considered themselves as the natural judges of those who were employed in the cultivation of their lands; looking on husbandmen with contempt, and only as a parcel of the soil which they tilled; to these the Saxons commonly allotted some part of their out-lands to hold as tenants at will, and to perform very low services for them. The differences of these inferior tenants were decided in the lord's court, in which his steward sat as judge; and this manner of tenure probably gave an origin to copyholders.† Their estates were at will, but their persons were free; nor can we suppose that villains, if we consider villains as synonimous to slaves, could ever by any natural course have risen to copyholders; because the servile condition of the villain's person would always have prevented that stable tenure in the lands which the copyholders came to in very early times. The merely servile part of the nation seems never to have been known by the name of villains or ceorles; but by those of bordars, esnes and theowes.

Hallmote or court baron.

As there were large tracts throughout the country not subject to the jurisdiction of any thane, the inhabitants of which were probably some remains of the ancient Britains not reduced to absolute slavery, and such Saxons as had not attached themselves to the fortunes of any leading man, it was proper to find some method of uniting

* Spelman of Feuds, ch. 7.

† Fuerunt etiam in conquestu liberi homines, qui liberè tenuerunt tenementa sua per libera servitia vel per liberas consuetudines. For the original of copyholds, see Bracton, l. 1. fo. 7.

and governing these detached parts of the nation which had not been brought into order by any private dependence. To answer this end, the whole kingdom was divided into shires; these into hundreds, and the hundreds into tythings.* This division was not made, as it is generally imagined, by King Alfred, though he might have introduced better regulations concerning it; it prevailed on the continent wherever the northern nations had obtained a settlement; and it is a species of order extremely obvious to all who use the decimal notation; when for the purposes of government they divide a county, tens and hundreds are the first modes of division which occur. The tything, which was the smallest of these divisions, consisted of ten heads of families, free, and of some consideration. These held a court every fortnight, which they called the Folkmote or Leet, and there became reciprocally bound to each other, and to the public, for their own peaceable behaviour, and that of their families and dependants. Every man in the kingdom, except those who belonged to the seigneurial courts we have mentioned, was obliged to enter himself into some tything; to this he was inseparably attached, nor could he by any means quit it without license from the head of the tything; because, if he was guilty of any misdemeanor, his district was obliged to produce him or pay his fine. In this manner was the whole nation, as it were, held under sureties; a species of regulation undoubtedly very wise with regard to the preservation of peace and order, but equally prejudicial to all improvement in the minds or the fortunes of the people, who, fixed invariably to their spot, were depressed with all the ideas of their original littleness, and by all that envy which is sure to arise in them who see their equals attempting to mount over them. This rigid order deadened by degrees the spirit of the English, and narrowed their conceptions. Every thing was new to them, and therefore every thing was terrible; all activity, boldness, en-

Tything court.

* Ibi debent populi omnes et universæ gentes singulis annis semel in anno (scilicet in capitè cal. Maii) et se fide et sacramento non fracto ibi in unum et simul confederare, et consolidare sicut conjurati fratres ad defendendum regnum contra alienigenas et contra inimicos unâ cum domino suo rege, et terras et honores illius omni fidelitate cum eo servare et quod illi ut domino suo regi intra et extra regnum universum Britanniæ fideles esse volunt. LL. Ed. Conf. c. 35. Of Heretoches and their election, vide Id. eodem.

Prohibitum erat etiam in eadem lege ne quis emeret vivum animal vel pannum usitatum sine pleglis et bonis testibus. Of other particulars of buying and selling, vide Leges Ed. Conf. 38.

BOOK II. A. D.

terprize and invention, died away. There may be a danger in straining too strongly the bonds of government, as a life of absolute license tends to turn men into savages. The other extreme of constraint operates much in the same manner; it reduces them to the same ignorance, but leaves them nothing of the savage spirit. These regulations helped to keep the people of England the most backward in Europe; for though the division into shires and hundreds and tythings was common to them with the neighbouring nations, yet the *Frank-pledge* seems to be a peculiarity in the English constitution; and, for good reasons, they have fallen into disuse, though still some traces of them are to be found in our laws.

Hundred court.

Ten of these tythings made an hundred; here in ordinary course they held a monthly court for the centenary, when all the suitors of the subordinate tythings attended. Here were determined causes concerning breaches of the peace, small debts, and such matters as rather required a speedy than a refined justice.

County court.

There was in the Saxon constitution a great simplicity. The higher order of courts were but the transcript of the lower, somewhat more extended in their objects and in their power; and their power over the inferior courts proceeded only from their being a collection of them all. The county or shire court was the great resort for justice (for the four great courts of record did not then exist.) It served to unite all the inferior districts with one another, and those with the private jurisdiction of the thanes. This court had no fixed place. The alderman of the shire appointed it. Hither came to account for their own conduct and that of those beneath them the bailiffs of hundreds and tythings and boroughs with their people; the thanes of either rank with their dependants; a vast concourse of the clergy of all orders; in a word, of all who sought or distributed justice. In this mixed assembly the obligations contracted in the inferior courts were renewed; a general oath of allegiance to the king was taken; and all debates between the several inferior co-ordinate jurisdictions, as well as the causes of too much weight for them, finally determined. In this court presided (for in strict signification he does not seem to have been a judge) an officer of great consideration in those times, called the ealdorman of the shire. With him sat the bishop, to decide in whatever related to the church; and to mitigate the rigor of the law, by the interposition

Ealdorman and Bishop.

of equity according to the species of mild justice that suited the ecclesiastical character. It appears by the ancient Saxon laws, that the bishop was the chief acting person in this court. The reverence in which the clergy were then held; the superior learning of the bishop; his succeeding to the power and jurisdiction of the Druid, all contributed to raise him far above the ealdorman, and to render it in reality his court. And this was probably the reason of the extreme lenity of the Saxon laws. The canons forbade the bishops to meddle in cases of blood. Amongst the ancient Gauls and Germans the Druid could alone condemn to death. So that on the introduction of christianity there was none who could, in ordinary course, sentence a man to capital punishment. Necessity alone forced it in a few cases.

Concerning the right of appointing the alderman of the shire there is some uncertainty. That he was anciently elected by his county is indisputable; that an alderman of the shire was appointed by the crown seems equally clear from the writers of the life of King Alfred. A conjecture of Spelman throws some light upon this affair. He conceives that there were two aldermen with concurrent jurisdiction, one of whom was elected by the people, the other appointed by the king. This is very probable, and very correspondent to the nature of the Saxon constitution; which was a species of democracy, poised and held together by a degree of monarchical power. If the king had no officer to represent him in the county court, wherein all the ordinary business of the nation was then transacted, the state would have hardly differed from a pure democracy. Besides, as the king had in every county large landed possessions, either in his demesne, or to reward and pay his officers, he would have been in a much worse condition than any of his subjects, if he had been destitute of a magistrate to take care of his rights, and to do justice to his numerous vassals. It appears, as well as we can judge in so obscure a matter, that the popular alderman was elected for a year only; and that the royal alderman held his place at the king's pleasure. This latter office, however, in process of time, was granted for life; and it grew afterwards to be hereditary in many shires.

The sheriff.

We cannot pretend to say when the sheriff came to be substituted in the place of the ealdorman; some authors think King Alfred the contriver of this regulation.

BOOK II. A. D.

It might have arisen from the nature of the thing itself. As several persons, of consequence enough to obtain by their interest or power the place of alderman, were not sufficiently qualified to perform the duty of the office, they contented themselves with the honorary part, and left the judicial province to their substitute.* The business of the robe, to a rude, martial people, was contemptible and disgusting. The thanes, in their private jurisdictions, had delegated their power of judging to their reeves or stewards; and the earl, or alderman, who was in the shire what the thane was in his manor, for the same reasons officiated by his deputy, the shire-reeve. This is the origin of the sheriff's tourn, which decided in all affairs, civil and criminal, of whatever importance; and from which there lay no appeal, but to the wittenagemote. Now there scarce remains the shadow of a body, formerly so great; the judge being reduced almost wholly to a ministerial officer; and to the court there being left nothing more than the cognizance of pleas under forty shillings, unless by a particular writ or special commission. But by what steps such a revolution came on, it will be our business hereafter to enquire.

Sheriff's tourn.

Wittenagemote.

The wittenagemote or Saxon parliament, the supreme court, had authority over all the rest, not upon any principle of subordination, but because it was formed of all the rest. In this assembly, which was held annually, and sometimes twice a year, sat the earls, and bishops, and greater thanes, with the other officers of the crown.† So far as we can judge by the style of the Saxon laws, none but the thanes or nobility were considered as necessary constituent parts of this assembly; at least whilst it acted deliberatively. It is true that great numbers of all ranks of people attended its session, and gave by their attendance, and their approbation of what was done, a sanction to the laws; but when they consented to any thing, it was rather in the way of acclamation, than by the exercise of a deliberative voice, or a regular assent or negative. This may be explained by consider-

* Sheriff in the Norman times was merely the king's officer; not the earl's. The earl retained his ancient fee, without jurisdiction; the sheriff did all the business. The elective sheriff must have disappeared on the conquest, for then all land was the king's either immediately or mediately, and therefore his officer governed.

† How this assembly was composed, or by what right the members sat in it, I cannot by any means satisfy myself. What is here said is, I believe, nearest to the truth.

ing the analogy of the inferior assemblies. All persons, of whatever rank, attended at the county courts; but they did not go there as judges; they went to sue for justice; to be informed of their duty, and to be bound to the performance of it. Thus all sorts of people attended at the wittenagemotes; not to make laws, but to attend at the promulgation of the laws;* as, among so free a people, every institution must have wanted much of its necessary authority, if not confirmed by the general approbation. Lambard is of opinion, that in these early times the commons sat, as they do at this day, by representation from shires and boroughs; and he supports his opinion by very plausible reasons. A notion of this kind, so contrary to the simplicity of the Saxon ideas of government, and to the genius of that people, who held the arts and commerce in so much contempt, must be founded on such appearances as no other explanation can account for.

To the reign of Henry II. the citizens and burgesses were little removed from absolute slaves. They might be taxed individually, at what sum the king thought fit to demand; or they might be discharged by offering the king a sum, from which, if he accepted it, the citizens were not at liberty to recede; and in either case the demand was exacted with severity, and even cruelty. A great difference is made between taxing them and those who cultivate lands; because, says my author, their property is easily concealed; they live penuriously, are intent by all methods to increase their substance, and their immense wealth is not easily exhausted. Such was their barbarous notion of trade and its importance. The same author, speaking of the severe taxation and violent method of extorting it, observes, that it is a very proper method; and that it is very just that a degenerate officer, or other freeman, rejecting his condition for sordid gain, should be punished beyond the common law of freemen.

I take it, that those who held by ancient demesne, did not prescribe simply not to contribute to the expenses of the knight of the shire; but they prescribed, as they did in all cases, upon a general principle, to pay no tax, nor to attend any duty of whatever species, because they were the king's villains. The argument is

* Hence, perhaps, all men are supposed cognizant of the law.

BOOK II. A. D.

drawn from the poverty of the boroughs, which ever since the conquest have been of no consideration, and yet send members to parliament; which they could not do but by some privileges inherent in them, on account of a practice of the same kind in the Saxon times, when they were of more repute. It is certain, that many places, now called boroughs, were formerly towns or villages in ancient demesne of the king; and had, as such, writs directed to them to appear in parliament, that they might make a free gift or benevolence as the boroughs did; and from thence arose the custom of summoning them. This appears by sufficient records. And it appears by records also, that it was much at the discretion of the sheriff what boroughs he should return; a general writ was directed to him to return for all the boroughs in a shire; sometimes boroughs, which had formerly sent members to parliament, were quite passed over, and others, never considered as such before, were returned. What is called the prescription on this occasion was rather a sort of rule to direct the sheriff in the execution of his general power, than a right inherent in any boroughs. But this was long after the time of which we speak. In whatever manner we consider it, we must own that this subject, during the Saxon times, is extremely dark. One thing, however, is I think clear, from the whole tenor of their government, and even from the tenor of the Norman constitution long after; that their wittenagemotes, or parliaments, were unformed, and that the rights by which the members held their seats, were far from being exactly ascertained. The *Judicia Civitat. Lond.* afford a tolerable insight into the Saxon method of making and executing laws: 1st. the king called together his bishops, and such other persons *as he thought proper*. This council, or wittenagemote, having made such laws as seemed convenient, they then swore to the observance of them. The king sent a notification of these proceedings to each burgmote, where the people of that court also swore to the observance of them, and confederated, by means of mutual strength and common charge, to prosecute delinquents against them. Nor did there at that time seem to be any other method of enforcing new laws or old. For as the very form of their government subsisted by a confederacy continually renewed; so when

a law was made, it was necessary, for its execution, to have again recourse to confederacy, which was the great, and I should almost say the only, principle of the Anglo-Saxon government. CHAP. VII. A. D.

What rights the king had in his assembly, is a matter of equal uncertainty.* The laws generally run in his name, with the assent of his wise men, &c. But considering the low estimation of royalty in those days, this may rather be considered as the voice of the executive magistrate, of the person who compiled the law and propounded it to the wittenagemote for their consent, than of a legislator dictating from his own proper authority. For then it seems the law was digested by the king or his council for the assent of the general assembly. That order is now reversed. All these things are, I think, sufficient to show of what a visionary nature those systems are, which would settle the ancient constitution in the most remote times exactly in the same form in which we enjoy it at this day; not considering that such mighty changes in manners, during so many ages, always must produce a considerable change in laws, and in the forms as well as the powers of all governments.

We shall next consider the nature of the laws passed in these assemblies, and the judicious manner of proceeding in these several courts which we have described.

Saxon laws.

The Anglo-Saxons trusted more to the strictness of their police, and to the simple manners of their people, for the preservation of peace and order, than to accuracy or exquisite digestion of their laws, or to the severity of the punishments which they inflicted.† The laws which remain to us of that people seem almost to regard two points only, the suppressing of riots and affrays, and the regulation of the several ranks of men, in order to adjust the fines for delinquencies according to the dignity of the person offended, or to the quantity of the offence. In all other respects their laws seem very imperfect. They often speak in the style of counsel as well as that of command. In the collection of laws attributed to Alfred, we

* Debet enim rex omnia facere in regno et per judicium procerum regni. Debet justitiam per consilium procerum regni sui tenere. Leges, Ed. 7.

† The non-observance of a regulation of police was always heavily punished by barbarous nations. A slighter punishment was inflicted upon the commission of crimes. Among the Saxons most crimes were punished by fine; wandering from the highway, without sounding an horn, was death. So among the Druids, to enforce exactness in time at their meetings, he that came last after the time appointed was punished with death.

BOOK II. A. D.

have the decalogue transcribed, with no small part of the Levitical law. In the same code are inserted many of the Saxon institutions, though these two laws were in all respects as opposite as could possibly be imagined. These indisputable monuments of our ancient rudeness are a very sufficient confutation of the panegyrical declamations, in which some persons would persuade us, that the crude institutions of an unlettered people had attained an height, which the united efforts of necessity, learning, inquiry and experience, can hardly reach to in many ages. We must add, that, although as one people, under one head, there was some resemblance in the laws and customs of our Saxon ancestors throughout the kingdom, yet there was a considerable difference in many material points between the customs of the several shires; nay, that in different manors subsisted a variety of laws not reconcilable with each other, some of which, custom, that caused them, has abrogated; others have been overruled by laws or public judgment to the contrary; not a few subsist to this time.

The Saxon laws, imperfect and various as they were, served, in some tolerable degree, a people who had by their constitution an eye on each other's concerns, and decided almost all matter of any doubt amongst them by methods, which, however inadequate, were extremely simple. They judged every controversy either by the conscience of the parties, or by the country's opinion of it, or what they judged an appeal to Providence. They were unwilling to submit to the trouble of weighing contradictory testimonies; and they were destitute of those critical rules by which evidence is sifted, the true distinguished from the false, the certain from the uncertain. Originally, therefore, the defendant in the suit was put to his oath; and if on oath he denied the debt, or the crime with which he was charged, he was of course acquitted. But when the first fervours of religion began to decay, and fraud and the temptations to fraud to increase, they trusted no longer to the conscience of the party. They cited him to an higher tribunal; the immediate judgment of God. Their trials were so many conjurations, and the magical ceremonies of barbarity and heathenism entered into law and religion. This supernatural method of process they called God's dome; it is generally known by the name of *ordeal*, which, in the Saxon language, signifies the great trial. This trial was made either by fire

Purgation by oath.

By ordeal.

or water; that by fire was principally reserved for persons of rank; that by water decided the fate of the vulgar; sometimes it was at the choice of the party. A piece of iron, kept with a religious veneration in some monastery, which claimed this privilege as an honour, was brought forth into the church upon the day of trial, and it was there again consecrated to this awful purpose by a form of service still extant. A solemn mass was performed; and then the party accused appeared, surrounded by the clergy, by his judges, and a vast concourse of people suspended and anxious for the event; all that assisted purified themselves by a fast of three days, and the accused, who had undergone the same fast, and received the sacrament, took the consecrated iron of about a pound weight, heated red, in his naked hand, and in that manner carried it nine feet. This done, the hand was wrapped up, and sealed in the presence of the whole assembly. Three nights being passed, the seals were opened before all the people; if the hand was found without any sore inflicted by the fire, the party was cleared with universal acclamation; if, on the contrary, a raw sore appeared, the party, condemned by the judgment of heaven, had no further plea or appeal. Sometimes the accused walked over nine hot irons; sometimes boiling water was used; into this the man dipped his hand to the arm. The judgment by water was accompanied by the solemnity of the same ceremonies. The culprit was thrown into a pool of water, in which, if he did not sink, he was adjudged guilty, as though the element (they said) to which they had committed the trial of his innocency had rejected him.

Both these species of ordeal, though they equally appealed to God, yet went on different principles. In the fire ordeal, a miracle must be wrought to acquit the party; in the water, a miracle was necessary to convict him. Is there any reason for this extraordinary distinction, or must we resolve it solely into the irregular caprices of the human mind? The greatest genius which has enlightened this age seems, in this affair, to have been carried, by the sharpness of his wit, into a subtilty hardly to be justified by the way of thinking of that unpolished period. Speaking of the reasons for introducing this method of trial, "qui ne voit," says he, "que chez un peuple exercé à manier des armes la peau rude et calleuse ne devoit pas recevoir assez l'impression du fer chaud pour

BOOK II. A. D.

qu'il y paroissoit trois jours après; et s'il y paroissoit c'est une marque que celui qui faisoit l'épreuve, étoit un efféminé." And this mark of effeminacy, he observes, in those warlike times, supposed that the man has resisted the principles of his education, that he is insensible to honour, and regardless of the opinion of his country. But supposing the effect of hot iron to be so slight, even on the most callous hands, of which, however, there is reason to doubt, yet we can hardly admit this reasoning, when we consider, that women were subjected to this fire ordeal, and that no other women than those of condition could be subjected to it. Montesquieu answers the objection, which he foresaw would be made, by remarking, that women might have avoided this proof, if they could find a champion to combat in their favour; and he thinks a just presumption might be formed against a woman of rank who was so destitute of friends as to find no protector. It must be owned, that the barbarous people all over Europe were much guided by presumptions in all their judicial proceedings; but how shall we reconcile all this with the custom of the Anglo-Saxons, among whom the ordeal was in constant use, and even for women, without the alternative of the combat, to which it appears this people were entire strangers? What presumption can arise from the event of the water ordeal, in which no callosity of hands, no bravery, no skill in arms, could be in any degree serviceable? The causes of both may, with more success, be sought amongst the superstitious ideas of the ancient northern world. Amongst the Germans, the administration of the law was in the hands of the priests or Druids.* And as the Druid worship paid the highest respect to the elements of fire and water, it was very natural that they, who abounded with so many conjurations for the discovery of doubtful facts, or future events, should make use of these elements in their divination. It may appear the greater wonder, how the people came to continue so long, and with such obstinacy, after the introduction of christianity, and in spite of the frequent injuctions of the pope, whose authority was then much venerated, in the use of a species of proof, the insufficiency of which a thousand examples might have de-

* The Druids judged not as magistrates, but as interpreters of the will of heaven. Ceterum neque animadvertere, neque vincire, neque verberare quidem nisi sacerdotibus permissum; non quasi in pœnam nec ducis jussu, sed velut Deo imperante, says Tacitus de Mor. German. 7.

tected. But this is perhaps not so unaccountable. Persons were not put to this trial unless there was pretty strong evidence against them; something sufficient to form what is equivalent to a *corpus delicti;* they must have been actually found guilty by the *duodecemvirale judicium*, before they could be subjected in any sort to the ordeal. It was in effect showing the accused an indulgence to give him this chance, even such a chance as it was, of an acquittal; and it was certainly much milder than the torture, which is used with full as little certainty of producing its end among the most civilized nations. And the ordeal without question frequently operated by the mere terror. Many persons, from a dread of the event, chose to discover rather than to endure the trial. Of those that did endure it, many must certainly have been guilty. The innocency of some who suffered could never be known with certainty. Others, by accident, might have escaped; and this apparently miraculous escape had great weight in confirming the authority of this trial. How long did we continue in punishing innocent people for witchcraft, though experience might, to thinking persons, have frequently discovered the injustice of that proceeding? whilst, to the generality, a thousand equivocal appearances, confessions from fear or weakness, in fine, the torrent of popular prejudice rolled down through so many ages, conspired to support the delusion.

Compurgation.

To avoid as much as possible this severe mode of trial, and at the same time to leave no inlet for perjury, another method of clearing was devised. The party, accused of any crime, or charged in a civil complaint, appeared in court with some of his neighbours, who were called his compurgators; and when on oath he denied the charge, they swore that they believed his oath to be true.* These compurgators were at first to be three, afterwards five were required; in process of time, twelve became necessary.† As a man might be charged by the opinion of the country, so he might also be discharged by it: twelve men were necessary to find him guilty, twelve might have acquitted him. If opinion supports all government, it not only supported in the general

* Si quis emendationem oppidorum vel pontium, vel profectionem militarem detrectaverit, compenset Regi 120 solidis, vel purget se, et nominentur ei 14. et eligantur 11. Leges Canuti, 62.

† Si accusatio sit et purgatio male succedat, indicet Episcopus. Leges Canuti, 53.

BOOK II. A. D.

sense, but it directed every minute part, in the Saxon polity. A man, who did not seem to have the good opinion of those among whom he lived, was judged to be guilty, or at least capable of being guilty of every crime. It was upon this principle, that a man, who could not find the security of some tything or friborgh for his behaviour,* he that was upon account of this universal desertion, called friendless man, was by our ancestors condemned to death; a punishment, which the lenity of the English laws in that time scarcely inflicted for any crime, however clearly proved; a circumstance which strongly marks the genius of the Saxon government.

Trial by the country.

On the same principle, from which the trial by the oath of compurgators was derived, was derived also the trial by the country; which was the method of taking the sense of the neighbourhood on any dubious fact. If the matter was of great importance, it was put in the full shiremote; and if the general voice acquitted or condemned, decided for one party or the other, this was final in the cause. But then it was necessary that all should agree; for it does not appear that our ancestors, in those days, conceived how any assembly could be supposed to give an assent to a point, concerning which, several who composed that assembly thought differently. They had no idea that a body composed of several, could act by the opinion of a small majority. But experience having shown that this method of trial was tumultuary and uncertain, they corrected it by the idea of compurgation. The party concerned was no longer put to his oath; he simply pleaded: the compurgators swore as before, in ancient times; therefore the jury were strictly from the neighbourhood, and were supposed to have a personal knowledge of the man, and the fact. They were rather a sort of evidence than judges; and from hence is derived that singularity in our laws, that most of our judgments are given upon verdict, and not upon evidence, contrary to the laws of most other coun-

* Every man not privileged, whether he be paterfamilias (heorthfest*) or pedissequa (folgheret) must enter into the hundred and tything, and all above twelve to swear he will not be a thief, or consenting to a thief. Leges Canuti, 19.

* Heorthfeste—the same with Husfastene or Husfestene, i. e. the master of a family, from the Saxon Hearthfæst, i. e. fixed to the house or hearth.

† The Folgheres, or Folgeres, were the menial servants or followers of the Husfastene, or Housekeepers. Bracton. liber 3. Tract. 2. cap. 10. Leges Henrici I. cap. 8.

tries. Neither are our juries bound, except by one particular statute, and in particular cases, to observe any positive testimony, but are at liberty to judge upon presumptions. These are the first rude chalkings out of our jurisprudence. The Saxons were extremely imperfect in their ideas of law; the civil institutions of the Romans, who were the legislators of mankind, having never reached them. The order of our courts, the discipline of our jury, by which it is become so elaborate a contrivance, and the introduction of a sort of scientific reason in the law have been the work of ages.

As the Saxon laws did not suffer any transaction, whether of the sale of land or goods, to pass but in the shire, and before witnesses, so all controversies of them were concluded by what they called, the *scyre witness*.* This was tried by the oaths of the parties, by *vivâ voce* testimony, and the producing of charters and records. Then the people, laity and clergy, whether by plurality of votes, or by what other means is not very certain, affirmed the testimony in favour of one of the claimants. Then the proceeding was signed, first by those who held the court, and then by the persons who affirmed the judgment, who also swore to it in the same manner.†

Punishments.

The Saxons were extremely moderate in their punishments; murder and treason were compounded; and a fine set for every offence. Forfeiture for felony was incurred only by those that fled. The punishment with death was very rare; with torture unknown. In all ancient nations, the punishment of crimes was in the family injured by them; particularly in case of murder.‡ This brought deadly feuds amongst the people, which, in the German nations particularly, subsisted through several generations. But as a fruitless revenge could answer little purpose to the parties injured, and was ruinous to the public peace, by the interposal of good offices, they

* Si quis terram defenderit testimonio provinciæ, &c. Leges Canuti, &c.; and sethe land gewerod hebbe be scyre gewitnesse.

† See, in Madox, the case in bishop of Bathes court. See also Brady 272, where the witnesses on one side offer to swear, or join battle with the other.

‡ Parentibus occisi fiat emendatio vel guerra eorum portetur, unde Anglicè proverbium habetur, Bige spere of side, oththe bær. Eme lanceam à latere, aut fer. Leg. Edward. 12.

The fines on the town or hundred.

Parentes murdrati sex Marcas haberent. Rex quadraginta. [this different from the ancient usage, where the king had half.] Si parentes deessent, dominus ejus reciperet. Si dominum non haberet, filagus ejus, id est, fide cum eo ligatus. LL. Inæ. 75.

BOOK II. A. D.

were prevailed upon to accept some composition in lieu of the blood of the aggressor, and peace was restored. The Saxon government did little more than act the part of arbitrator between the contending parties, exacted the payment of this composition, and reduced it to a certainty. However, the king, as the sovereign of all, and the sheriff, as the judicial officer, had their share in those fines. This unwillingness to shed blood, which the Saxon customs gave rise to, the christian religion confirmed. Yet was it not altogether so imperfect as to have no punishment adequate to those great delinquencies which tend entirely to overturn a state, public robbery, murder of the lord.*

Origin of succession

As amongst the Anglo-Saxons government depended in some measure upon land property, it will not be amiss to say something upon their manner of holding and inheriting their lands. It must not be forgot that the Germans were of Scythian original, and had preserved that way of life, and those peculiar manners, which distinguished the parent nation. As the Scythians lived principally by pasturage and hunting, from the nature of that way of employment, they were continually changing their habitations. But even in this case some small degree of agriculture was carried on; and therefore some sort of division of property became necessary. This division was made among each tribe by its proper chief. But their shares were allotted to the several individuals only for a year; lest they should come to attach themselves to any certain habitation; a settlement being wholly contrary to the genius of the Scythian manners.

Annual property.

Campestres melius Scythæ,
  Quorum plaustra vagas rite trahunt domos,
Vivuntet, rigidi Getæ,
  Immetata quibus jugera liberas
Fruges et Cererem ferunt,
  Nec cultura placet longior annuâ.

Estates for life.

This custom of an annual property probably continued amongst the Germans as long as they remained in their

* Purveyance, vide Leges Canuti, 67.
Si quis intestatus ex hâc vitâ decedat, sive sit per negligentiam ejus, sive per mortem subitaneam, tunc non assumat sibi dominus plus possessionis (æhta) ipsius quam justum armamentum; sed post mortem possessio (æhtgescyft) ejus quàm justissime distribuatur uxori, et liberis, et propinquis cognatis, cuilibet pro dignitate quæ ad eum pertinet. Leges Canuti, 68.

own country; but when their conquests carried them into other parts, another object, besides the possession of the land, arose, which obliged them to make a change in this particular. In the distribution of the conquered lands, the ancient possessors of them became an object of consideration, and the management of these became one of the principal branches of their polity. It was expedient, towards holding them in perfect subjection, that they should be habituated to obey one person, and that a kind of cliental relation should be created between them; therefore the land with the slaves, and the people in a state next to slavery annexed to it, were bestowed for life in the general distribution. When life estates were once granted, it seemed a natural consequence, that inheritances should immediately supervene. When a durable connexion is created between a certain man, and a certain portion of land, by a possession for his whole life, and when his children have grown up and have been supported on that land, it seems so great an hardship to separate them, and to deprive thereby the family of all means of subsisting, that nothing could be more generally desired, nor more reasonably allowed, than an inheritance; and this reasonableness was strongly enforced by the great change wrought in their affairs, when life estates were granted. Whilst, according to the ancient custom, lands were only given for a year, there was a rotation so quick, that every family came in its turn to be easily provided for, and had not long to wait; but the children of a tenant for life, when they lost the benefit of their father's possession, saw themselves as it were immured upon every side by their life estates, and perceived no reasonable hope of a provision from any new arrangement. These inheritances began very early in England; by a law of King Alfred, it appears that they were then of a very ancient establishment. And as such inheritances were intended for great stability, they fortified them by charters; and therefore they were called bookland. This was done with regard to the possessions of the better sort; the meaner, who were called *ceorles*, if they did not live in a dependance on some thane, held their small portions of land as an inheritance likewise; not by charter, but by a sort of prescription: this was called folkland. These estates of inheritance, both the greater and the meaner, were not fiefs; they were to all purposes allodial, and had hardly

Inheritance.

Bookland.

Folkland.

BOOK II. A. D.

a single property of a feud; they descended equally to all the children, males and females, according to the custom of gavelkind, a custom absolutely contrary to the genius of the feudal tenure; and whenever estates were granted in the later Saxon times by the bounty of the crown, with an intent that they should be inheritable, so far were they from being granted with the complicated load of all the feudal services annexed, that in all the charters of that kind which subsist, they are bestowed with a full power of alienation, *et liberi ab omni seculari gravamine.* This was the general condition of those inheritances which were derived from the right of original conquest, as well to all the soldiers, as to the leader; and these estates, as it is said, were not even forfeitable, no not for felony, as if that were in some sort the necessary consequence of an inheritable estate. So far were they from resembling a fief. But there were other possessions, which bore a nearer resemblance to fiefs, at least in their first feeble and infantile state of the tenure, than those inheritances which were held by an absolute right in the proprietor. The great officers, who attended the court, commanded armies, or distributed justice, must necessarily be paid and supported; but in what manner could they be paid? In money they could not; because there was very little money then in Europe, and scarce any part of that little came into the prince's coffers. The only method of paying them was, by allotting lands for their subsistence whilst they remained in his service. For this reason, in the original distribution, vast tracts of land were left in the hands of the king. If any served the king in a military command, his land may be said to have been in some sort held by knight service. If the tenant was in an office about the king's person, this gave rise to sergeantry; the persons, who cultivated his lands, may be considered as holding by socage. But the long train of services, that made afterwards the learning of the tenures, were then not thought of; because these feuds, if we may so call them, had not then come to be inheritances; which circumstance of inheritance gave rise to the whole feudal system. With the Anglo-Saxons, the feuds continued to the last but a sort of pay or salary of office. The *trinoda necessitas* so much spoken of, which was to attend the king in his expeditions, and to contribute to the building of bridges and repair of highways, never

Saxon fiefs.

bound the lands by way of tenure, but as a political regulation, which equally affected every class and condition of men, and every species of possession.

CHAP. VII.

A. D.

Gavelkind.

The manner of succeeding to lands in England at this period was, as we have observed, by gavelkind; an equal distribution amongst the children, males and females. The ancient northern nations had but an imperfect notion of political power. That the possessor of the land should be the governor of it was a simple idea; and their schemes extended but little further. It was not so in the Greek and Italian commonwealths. In those the property of the land was in all respects similar to that of goods, and had nothing of jurisdiction annexed to it; the government there was a merely political institution. Amongst such a people the custom of distribution could be of no ill consequence, because it only affected property; but gavelkind amongst the Saxons was very prejudicial; for as government was annexed to a certain possession in land, this possession, which was continually changing, kept the government in a very fluctuating state; so that their civil polity had in it an essential evil, which contributed to the sickly condition in which the Anglo-Saxon state always remained, as well as to its final dissolution.

AN

ABRIDGMENT

OF

ENGLISH HISTORY.

BOOK III.

CHAP. I.

View of the state of Europe at the time of the Norman invasion.

BOOK III. A. D.

BEFORE the period, of which we are going to treat, England was little known or considered in Europe. Their situation, their domestic calamities, and their ignorance, circumscribed the views and politics of the English within the bounds of their own island. But the Norman conqueror threw down all these barriers. The English laws, manners, and maxims, were suddenly changed; the scene was enlarged; and the communication with the rest of Europe being thus opened, has been preserved ever since in a continued series of wars and negotiations. That we may therefore enter more fully into the matters which lie before us, it is necessary that we understand the state of the neighbouring continent at the time when this island first came to be interested in its affairs.

The northern nations, who had overran the Roman empire, were at first rather actuated by avarice than ambition, and were more intent upon plunder than conquest; they were carried beyond their original purposes, when they began to form regular governments, for which they had been prepared by no just ideas of legislation.

For a long time, therefore, there was little of order in their affairs, or foresight in their designs. The Goths, the Burgundians, the Franks, the Vandals, the Suevi, after they had prevailed over the Roman empire, by turns prevailed over each other in continual wars, which were carried on upon no principles of a determinate policy, entered into upon motives of brutality and caprice, and ended as fortune and rude violence chanced to prevail. Tumult, anarchy, confusion overspread the face of Europe; and an obscurity rests upon the transactions of that time, which suffers us to discover nothing but its extreme barbarity.

Before this cloud could be dispersed, the Sarazens, another body of barbarians from the south, animated by a fury not unlike that which gave strength to the northern eruptions, but heightened by enthusiasm, and regulated by subordination and an uniform policy, began to carry their arms, their manners, and religion, into every part of the universe. Spain was entirely overwhelmed by the torrent of their armies; Italy and the islands were harassed by their fleets, and all Europe alarmed by their vigorous and frequent enterprizes. Italy, who had so long sat the mistress of the world, was by turns the slave of all nations; the possession of that fine country was hotly disputed between the Greek emperor and the Lombards; and it suffered infinitely by that contention. Germany, the parent of so many nations, was exhausted by the swarms she had sent abroad.

However, in the midst of this chaos there were principles at work, which reduced things to a certain form, and gradually unfolded a system, in which the chief movers and main springs were the papal and the imperial powers; the aggrandizement or diminution of which have been the drift of almost all the politics, intrigues, and wars, which have employed and distracted Europe to this day.

From Rome the whole western world had received its christianity; she was the asylum of what learning had escaped the general desolation; and even in her ruins she preserved something of the majesty of her ancient greatness. On these accounts she had a respect and a weight, which increased every day amongst a simple, religious people, who looked but a little way into the consequences of their actions. The rudeness of the world was very favourable for the establishment of an empire of opinion.

BOOK III. A. D.

The moderation with which the popes at first exerted this empire, made its growth unfelt until it could no longer be opposed. And the policy of later popes, building on the piety of the first, continually increased it; and they made use of every instrument but that of force. They employed equally the virtues and the crimes of the great; they favoured the lust of kings for absolute authority, and the desire of subjects for liberty; they provoked war and mediated peace, and took advantage of every turn in the minds of men, whether of a public or private nature, to extend their influence, and push their power, from ecclesiastical to civil; from subjection to independency; from independency to empire.

France had many advantages over the other parts of Europe. The Sarazens had no permanent success in that country. The same hand which expelled those invaders, deposed the last of a race of heavy and degenerate princes, more like eastern monarchs than German leaders, and who had neither the force to repel the enemies of their kingdom, nor to assert their own sovereignty. This usurpation placed on the throne princes of another character; princes who were obliged to supply their want of title by the vigour of their administration. The French monarch had need of some great and respected authority to throw a veil over his usurpation, and to sanctify his newly acquired power by those names and appearances, which are necessary to make it respectable to the people. On the other hand, the pope, who hated the Grecian empire, and equally feared the success of the Lombards, saw with joy this new star arise in the north, and gave it the sanction of his authority. Presently after he called it to his assistance. Pepin passed the Alps, relieved the pope, and invested him with the dominion of a large country in the best part of Italy.

Charlemagne pursued the course which was marked out for him; and put an end to the Lombard kingdom, weakened by the policy of his father, and the enmity of the popes, who never willingly saw a strong power in Italy. Then he received from the hand of the pope the imperial crown, sanctified by the authority of the holy see; and with it the title of emperor of the Romans, a name venerable from the fame of the old empire, and which was supposed to carry great and unknown prerogatives; and thus the empire rose again out of its ruins in the west; and what is remarkable, by means of one

of those nations which had helped to destroy it. If we take in the conquests of Charlemagne, it was also very near as extensive as formerly; though its constitution was altogether different, as being entirely on the northern model of government.

From Charlemagne the pope received in return an enlargement and a confirmation of his new territory. Thus the papal and imperial powers mutually gave birth to each other. They continued for some ages, and in some measure, still continue, closely connected; with a variety of pretensions upon each other, and on the rest of Europe.

Though the imperial power had its origin in France, it was soon divided into two branches, the Gallic, and the German. The latter alone supported the title of empire; but the power being weakened by this division, the papal pretensions had the greater weight. The pope, because he first revived the imperial dignity, claimed a right of disposing of it, or at least of giving validity to the election of the emperor. The emperor, on the other hand, remembering the rights of those sovereigns whose title he bore, and how lately the power, which insulted him with such demands, had arisen from the bounty of his predecessors, claimed the same privileges in the election of a pope. The claims of both were somewhat plausible; and they were supported, the one by force of arms, and the other by ecclesiastical influence; powers, which in those days were very nearly balanced. Italy was the theatre upon which this prize was disputed. In every city, the parties in favour of each of the opponents were not far from an equality in their numbers and strength. Whilst these parties disagreed in the choice of a master, by contending for a choice in their subjection, they grew imperceptibly into freedom, and passed through the medium of faction and anarchy, into regular commonwealths. Thus arose the republics of Venice, of Genoa, of Florence, Sienna, and Pisa, and several others. These cities, established in this freedom, turned the frugal and ingenious spirit contracted in such communities to navigation and traffick; and pursuing them with skill and vigour, whilst commerce was neglected and despised by the rustic gentry of the martial governments, they grew to a considerable degree of wealth, power, and civility.

BOOK III. A. D.

The Danes, who in this latter time preserved the spirit and the numbers of the ancient Gothic people, had seated themselves in England, in the Low Countries, and in Normandy. They passed from thence to the southern part of Europe, and in this romantic age gave rise in Sicily and Naples to a new kingdom, and a new line of princes.

All the kingdoms on the continent of Europe were governed nearly in the same form; from whence arose a great similitude in the manners of their inhabitants. The feodal discipline extended itself every where, and influenced the conduct of the courts, and the manners of the people, with its own irregular martial spirit. Subjects under the complicated laws of a various and rigorous servitude exercised all the prerogatives of sovereign power. They distributed justice, they made war and peace at pleasure. The sovereign, with great pretensions, had but little power; he was only a greater lord, among great lords, who profited of the differences of his peers: therefore, no steady plan could be well pursued either in war or peace. This day a prince seemed irresistible at the head of his numerous vassals, because their duty obliged them to war, and they performed this duty with pleasure. The next day saw this formidable power vanish like a dream; because this fierce undisciplined people had no patience, and the time of the feudal service was contained within very narrow limits. It was therefore easy to find a number of persons at all times ready to follow any standard, but it was hard to compleat a considerable design, which required a regular and continued movement. This enterprising disposition in the gentry was very general, because they had little occupation or pleasure but in war; and the greatest rewards did then attend personal valour and prowess. All that professed arms became in some sort on an equality. A knight was the peer of a king; and men had been used to see the bravery of private persons opening a road to that dignity. The temerity of adventurers was much justified by the ill order of every state, which left it a prey to almost any who should attack it with sufficient vigour. Thus little checked by any superior power, full of fire, impetuosity, and ignorance, they longed to signalize themselves, wherever an honourable danger called them; and wherever that invited, they did not weigh very deliberately the probability of success.

The knowledge of this general disposition in the minds of men will naturally remove a great deal of our wonder at seeing an attempt founded on such slender appearances of right, and supported by a power so little proportioned to the undertaking as that of William, so warmly embraced, and so generally followed, not only by his own subjects, but by all the neighbouring potentates. The counts of Anjou, Bretagne, Ponthieu, Boulogne and Poittu, sovereign princes; adventurers from every quarter of France, the Netherlands, and the remotest parts of Germany, laying aside their jealousies and enmities to one another, as well as to William, ran with an inconceivable ardour into this enterprize; captivated with the splendour of the object, which obliterated all thoughts of the uncertainty of the event. William kept up this fervour by promises of large territories to all his allies and associates, in the country to be reduced by their united efforts. But after all it became equally necessary to reconcile to his enterprize the three great powers, of whom we have just spoken, whose disposition must have had the most influence on his affairs.

His feudal lord, the king of France, was bound by his most obvious interests to oppose the further aggrandizement of one already too potent for a vassal; but the king of France was then a minor, and Baldwin, earl of Flanders, whose daughter William had married, was regent of the kingdom. This circumstance rendered the remonstrance of the French council against his design of no effect; indeed, the opposition of the council itself was faint; the idea of having a king under vassalage to their crown might have dazzled the more superficial courtiers, whilst those, who thought more deeply, were unwilling to discourage an enterprize which they believed would probably end in the ruin of the undertaker. The emperor was in his minority, as well as the king of France; but by what arts the duke prevailed upon the imperial council to declare in his favour, whether or no by an idea of creating a balance to the power of France, if we can imagine that any such idea then subsisted, is altogether uncertain; but it is certain that he obtained leave for the vassals of the empire to engage in his service, and that he made use of this permission. The pope's consent was obtained with still less difficulty. William had shown himself in many instances a friend to the church, and a favourer of the clergy. On this occasion, he pro-

BOOK III. A. D. mised to improve those happy beginnings in proportion to the means he should acquire by the favour of the holy see; it is said, that he even proposed to hold his new kingdom as a fief from Rome. The pope, therefore, entered heartily into his interests; he excommunicated all those that should oppose his enterprize, and sent him, as a means of insuring success, a consecrated banner.

CHAP. II.

Reign of William the Conqueror.

1066 After the battle of Hastings, the taking of Dover, the surrender of London, and the submission of the principal nobility, William had nothing left but to order in the best manner the kingdom he had so happily acquired. Soon after his coronation, fearing the sudden and ungoverned motions of so great a city, new to subjection, he left London until a strong citadel could be raised to overawe the people. This was built where the tower of London now stands. Not content with this, he built three other strong castles, in situations as advantageously chosen, at Norwich, at Winchester, and at Hereford, securing not only the heart of affairs, but binding down the extreme parts of the kingdom. And as he observed, from his own experience, the want of fortresses in England, he resolved fully to supply that defect, and guard the kingdom both against internal and foreign enemies. But he fortified his throne yet more strongly by the policy of good government. To London he confirmed by charter the liberties it had enjoyed under the Saxon kings; and endeavoured to fix the affections of the English in general, by governing them with equity according to their ancient laws, by treating them on all occasions with the most engaging deportment. He set up no pretences which arose from absolute conquest. He confirmed their estates to all those who had not appeared in arms against him, and seemed not to aim at subjecting the English to the Normans, but to unite the two nations under the wings of a common parental care. If the Normans received estates and held lucrative offices, and were raised by wealthy matches in England, some of the English were enriched with lands and dignities, and taken into considerable fami-

lies in Normandy. But the king's principal regards were showed to those by whose bravery he had attained his greatness. To some he bestowed the forfeited estates, which were many and great, of Harold's adherents; others he satisfied from the treasures his rival had amassed; and the rest, quartered upon wealthy monasteries, relied patiently on the promises of one whose performances had hitherto gone hand in hand with his power. There was another circumstance, which conduced much to the maintaining, as well as to the making, his conquest. The posterity of the Danes, who had finally reduced England under Canute the Great, were still very numerous in that kingdom, and in general not well liked by, nor well affected to, the old Anglo-Saxon inhabitants. William wisely took advantage of this enmity between the two sorts of inhabitants, and the alliance of blood which was between them and his subjects. In the body of laws which he published, he insists strongly on this kindred, and declares, that the Normans and Danes ought to be as sworn brothers against all men: a policy, which probably united these people to him; or at least so confirmed the ancient jealousy which subsisted between them and the original English, as to hinder any cordial union against his interests.

When the king had thus settled his acquisitions by all the methods of force and policy, he thought it expedient to visit his patrimonial territory, which, with regard to its internal state, and the jealousies which his additional greatness revived in many of the bordering princes, was critically situated. He appointed to the regency, in his absence, his brother Odo, an ecclesiastic, whom he had made bishop of Bayeaux in France, and earl of Kent, with great power and pre-eminence in England; a man bold, fierce, ambitious, full of craft, imperious, and without faith, but well versed in all affairs, vigilant and courageous. To him he joined William Fitz-Auber, his justiciary, a person of consummate prudence and great integrity. But, not depending on this disposition, to secure his conquest as well as to display its importance abroad, under a pretence of honour, he carried with him all the chiefs of the English nobility, the popular Earls Edwin and Morca, and, what was of most importance, Edgar Atheling, the last branch of the royal stock of the Anglo-Saxon kings, and infinitely dear to all the people.

The king managed his affairs abroad with great ad-

BOOK III. A. D. 1066

dress, and covered all his negotiations for the security of his Norman dominions, under the magnificence of continual feasting and unremitted diversion, which, without an appearance of design, displayed his wealth and power, and by that means facilitated his measures. But, whilst he was thus employed, his absence from England gave an opportunity to several humours to break out, which the late change had bred, but which the amazement likewise produced by that violent change, and the presence of their conqueror, wise, vigilant, and severe, had hitherto repressed. The ancient line of their kings displaced; the only thread on which it hung carried out of the kingdom, and ready to be cut off by the jealousy of a merciless usurper; their liberties none, by being precarious, and the daily insolencies and rapine of the Normans intolerable; these discontents were increased by the tyranny and rapaciousness of the regent; and they were fomented from abroad by Eustace, count of Bologne; but the people, though ready to rise in all parts, were destitute of leaders; and the insurrections actually made were not carried on in concert, nor directed to any determinate
1067 object. So that the king, returning speedily, and exerting himself every where with great vigour, in a short time dissipated these ill-formed projects. However, so general a dislike to William's government had appeared on this occasion, that he became in his turn disgusted with his subjects, and began to change his maxims of rule to a rigor, which was more conformable to his advanced age, and the sternness of his natural temper. He resolved, since he could not gain the affections of his subjects, to find such matter for their hatred as might weaken them, and fortify his own authority against the enterprizes which that hatred might occasion. He revived the tribute of Danegelt, so odious from its original cause, and that of its revival, which he caused to be strictly levied throughout the kingdom. He erected castles at Nottingham, at Warwick, and at York, and filled them with Norman garrisons; he entered into a stricter inquisition for the discovery of the estates forfeited on his coming in; paying no regard to the privileges of the ecclesiastics, he seized upon the treasures, which, as in an inviolable asylum, the unfortunate adherents to Harold had deposited in monasteries. At the same time he entered into a resolution of deposing all the English bishops, on none of whom he could rely, and filling their places with Nor-

mans. But he mitigated the rigour of these proceedings by the wise choice he made in filling the places of those whom he had deposed; and gave by that means these violent changes the air rather of reformation than oppression. He began with Stigand, archbishop of Canterbury. A synod was called, in which, for the first time in England, the pope's legate, a Latere, is said to have presided. In this council, Stigand, for simony and for other crimes, of which it is easy to convict those who are out of favour, was solemnly degraded from his dignity. The king filled his place with Lancfranc, an Italian. By his whole conduct he appeared resolved to reduce his subjects of all orders to the most perfect obedience. CHAP. II. A. D. 1067

The people loaded with new taxes, the nobility degraded and threatened, the clergy deprived of their immunities and influence, joined in one voice of discontent; and stimulated each other to the most desperate resolutions. The king was not unapprized of these motions, nor negligent of them. It is thought he meditated to free himself from much of his uneasiness, by seizing those men, on whom the nation in its distresses used to cast its eyes for relief. But whilst he digested these measures, Edgar Atheling, Edwin and Morcar, Waltheof the son of Seward, and several others, eluded his vigilance, and escaped into Scotland, where they were received with open arms by King Malcolm. The Scottish monarch on this occasion married the sister of Edgar; and this match engaged him more closely to the accomplishment of what his gratitude to the Saxon kings and the rules of good policy had before inclined him. He entered at last into the cause of his brother-in-law and the distressed English; he persuaded the king of Denmark to enter into the same measures, who agreed to invade England with a fleet of a thousand ships. Drone, an Irish king, declared in their favour, and supplied the sons of Earl Goodwin with vessels and men, with which they held the English coast in continual alarms. 1068

Whilst the forces of this powerful confederacy were collecting on all sides, and prepared to enter England, equal dangers threatened from within the kingdom. Edric the Forester, a very brave and popular Saxon, took up arms in the counties of Hereford and Salop, the country of the ancient Silures, and inhabited by the same warlike and untameable race of men. The Welsh 1069

BOOK III. strengthened him with their forces, and Cheshire joined in the revolt. Hereward le Wake, one of the most
A. D. brave and indefatigable soldiers of his time, rushed with
1069 a numerous band of fugitives and outlaws from the fens of Lincoln and the Isle of Ely; from whence, protected by the situation of the place, he had for some time carried on an irregular war against the Normans. The sons of Goodwin landed with a strong body in the west; the fire of rebellion ran through the kingdom; Cornwall, Devon, Dorset, at once threw off the yoke. Daily skirmishes were fought in every part of the kingdom with various success, and with great bloodshed. The Normans retreated to their castles, which the English had rarely skill or patience to master; out of these they sallied from time to time, and asserted their dominion. The conquered English for a moment resumed their spirit; the forests and morasses, with which this island then abounded, served them for fortifications, and their hatred to the Normans stood in the place of discipline; each man, exasperated by his own wrongs, avenged them in his own manner: every thing was full of blood and violence. Murders, burnings, rapine, and confusion overspread the whole kingdom. During these distractions, several of the Normans quitted the country, and gave up their possessions, which they thought not worth holding in continual horror and danger. In the midst of this scene of disorder, the king alone was present to himself and to his affairs. He first collected all the forces on whom he could depend within the kingdom, and called powerful succours from Normandy. Then he sent a strong body to repress the commotions in the west; but he reserved the greatest force, and his own presence, against the greatest danger, which menaced from the north. The Scots had penetrated as far as Durham; they had taken the castle, and put the garrison to the sword. A like fate attended York from the Danes, who
1070 had entered the Humber with a formidable fleet. They put this city into the hands of the English malecontents, and thereby influenced all the northern counties in their favour. William, when he first perceived the gathering of the storm, endeavoured, and with some success, to break the force of the principal blow, by a correspondence at the court of Denmark; and now he entirely blunted the weapon, by corrupting, with a considerable sum, the Danish general. It was agreed, to

gratify that piratical nation, that they should plunder some part of the coast, and depart without further disturbance. By this negotiation, the king was enabled to march with an undissipated force against the Scots, and the principal body of the English. Every thing yielded. The Scots retired into their own country. Some of the most obnoxious of the English fled along with them. One desperate party, under the brave Waltheof, threw themselves into York, and ventured alone to resist his victorious army. William pressed the siege with vigour; and, notwithstanding the prudent dispositions of Waltheof, and the prodigies of valour he displayed in its defence, standing alone in the breach, and maintaining his ground gallantly and successfully, the place was at last reduced by famine. The king left his enemies no time to recover this disaster; he followed his blow, and drove all who adhered to Edgar Atheling out of all the countries northward of the Humber. This tract he resolved entirely to depopulate, influenced by revenge, and by distrust of the inhabitants, and partly with a view of opposing an hideous desart of sixty miles in extent, as an impregnable barrier against all attempts of the Scots in favour of his disaffected subjects. The execution of this barbarous project was attended with all the havoc and desolation that it seemed to threaten: one hundred thousand are said to have perished by cold, penury, and disease. The ground lay untilled throughout that whole space for upwards of nine years. Many of the inhabitants both of this and all other parts of England, fled into Scotland; but they were so received by King Malcolm, as to forget that they had lost their country. This wise monarch gladly seized so fair an opportunity, by the exertion of a benevolent policy, to people his dominions, and to improve his native subjects. He received the English nobility according to their rank; he promoted them to offices according to their merit, and enriched them by considerable estates from his own demesne. From these noble refugees several considerable families in Scotland are descended.

William, on the other hand, amidst all the excesses, which the insolence of victory, and the cruel precautions of usurped authority could make him commit, gave many striking examples of moderation and greatness of mind. He pardoned Waltheof, whose bravery he did not the less admire, because it was exerted against himself. He

BOOK III. A. D. 1070

restored him to his ancient honours and estates; and thinking his family strengthened by the acquisition of a gallant man, he bestowed upon him his niece Judith in marriage. On Edric the Forester, who lay under his sword, in the same generous manner he not only bestowed his life, but honoured it with an addition of dignity.

The king, having thus by the most politic and the most courageous measures, by art, by force, by severity, and by clemency, dispelled those clouds, which had gathered from every quarter to overwhelm him, returned triumphant to Winchester; where, as if he had newly acquired the kingdom, he was crowned with great solemnity. After this, he proceeded to execute the plan he had long proposed, of modelling the state according to his own pleasure, and of fixing his authority upon an immovable foundation.

There were few of the English who, in the late disturbances, had not either been active against the Normans, or shown great disinclination to them. Upon some right, or some pretence, the greatest part of their lands were adjudged to be forfeited. William gave these lands to Normans to be held by the tenure of knight service, according to the law which modified that service in all parts of Europe. These people he chose, because he judged they must be faithful to the interest on which they depended; and this tenure he chose because it raised an army without expense; called it forth at the least warning; and seemed to secure the fidelity of the vassal, by the multiplied ties of those services which were inseparably annexed to it. In the establishment of these tenures, William only copied the practice which was now become very general. One fault, however, he seems to have committed in this distribution; the immediate vassals of the crown were too few; the tenants *in capite* at the end of this reign did not exceed seven hundred; the eyes of the subject met too many great objects in the state, besides the state itself; and the dependence of the inferior people was weakened by the interposal of another authority between them and the crown; and this without being at all serviceable to liberty. The ill consequence of this was not so obvious, whilst the dread of the English made a good correspondence between the sovereign and the great vassals absolutely necessary; but it afterwards appeared, and in a light very offensive to the power of our kings.

As there is nothing of more consequence in a state than the ecclesiastical establishment, there was nothing, to which this vigilant prince gave more of his attention. If he owed his own power to the influence of the clergy, it convinced him how necessary it was to prevent that engine from being employed in its turn against himself. He observed, that besides the influence they derived from their character, they had a vast portion of that power which always attends property. Of about 60,000 knight's fees, which England was then judged to contain, 28,000 were in the hands of the clergy; and these they held discharged of all taxes, and free from every burthen of civil or military service; a constitution undoubtedly no less prejudicial to the authority of the state, than detrimental to the strength of the nation, deprived of so much revenue, so many soldiers, and of numberless exertions of art and industry, which were stifled by holding a third of the soil in dead hands out of all possibility of circulation. William in a good measure remedied these evils, but with the great offence of all the ecclesiastic orders. At the same time that he subjected the church lands to military service, he obliged each monastery and bishopric to the support of soldiers, in proportion to the number of knight's fees that they possessed. No less jealous was he of the papal pretensions, which, having favoured so long as they served him as the instruments of his ambition, he afterwards kept within very narrow bounds. He suffered no communication with Rome but by his knowledge and approbation. He had a bold and ambitious pope to deal with, who yet never proceeded to extremities with, nor gained one advantage over William during his whole reign; although he had by an express law reserved to himself a sort of right in approving the pope chosen, by forbidding his subjects to yield obedience to any whose right the king had not acknowledged.

To form a just idea of the power and greatness of this king, it will be convenient to take a view of his revenue. And I the rather choose to dwell a little upon this article, as nothing extends to so many objects as the public finances; and consequently nothing puts in a clearer or more decisive light the manners of the people, and the form, as well as the powers of government, at any period.

The first part of this consisted of the demesne. The lands of the crown were, even before the conquest, very

BOOK III. A. D. 1070

extensive. The forfeitures consequent to that great change had considerably increased them. It appears from the record of Domesday, that the king retained in his own hands no fewer than 1,400 manors. This alone was a royal revenue. However, great as it really was, it has been exaggerated beyond all reason. Ordericus Vitalis, a writer almost cotemporary, asserts, that this branch alone produced a thousand pounds a day ;* which valuing the pound as it was then estimated, at a real pound of silver, and then allowing for the difference in value since that time, it will make near twelve millions of our money. This account, coming from such an authority, has been copied without examination by all the succeeding historians. If we were to admit the truth of it, we must entirely change our ideas concerning the quantity of money, which then circulated in Europe. And it is a matter altogether monstrous and incredible, in an age when there was little traffick in this nation; and the traffick of all nations circulated but little real coin; when the tenants paid the greatest part of their rents in kind; and when it may be greatly doubted whether there was so much current money in the nation, as is said to have come into the king's coffers from this one branch of his revenue only. For it amounts to a twelfth part of all the circulating species, which a trade, so infinitely more entensive, has derived from sources so infinitely more exuberant to this wealthy nation, in this improved age. Neither must we think, that the whole revenue of this prince ever rose to such a sum. The great fountain, which fed his treasury, must have been Danegelt, which, upon any reasonable calculation, could not possibly exceed one hundred and twenty thousand pounds of our money, if it ever reached that sum. William was observed to be a great hoarder, and very avaricious; his army was maintained without any expense to him; his demesne supported his household; neither his necessary, nor his voluntary expenses were considerable. Yet the effects of many years scraping and hoarding left at his death but sixty thousand pounds, not the sixth part of one year's income, according to this account, of one branch of his revenue: and this was then esteemed a vast treasure. Edgar Atheling, on being reconciled to the king, was allowed a mark a day for his expenses, and

* I have known myself great mistakes in calculation by computing, as the produce of every day in the year, that of one extraordinary day.

he was thought to be allowed sufficiently; though he received it in some sort as an equivalent for his right to the crown. I venture on this digression, because writers in an ignorant age, making guesses at random, impose on more enlightened times, and affect by their mistakes many of our reasonings on affairs of consequence; and it is the error of all ignorant people, to rate unknown times, distances, and sums, very far beyond their real extent. There is even something childish and whimsical in computing this revenue, as the original author has done, at so much a day. For my part, I do not imagine it so difficult to come at a pretty accurate decision of the truth or falshood of this story.

CHAP. II. 1070

The above-mentioned manors are charged with rents, from five to an hundred pounds each. The greatest number of those I have seen in print are under fifty; so that we may safely take that number as a just medium; and then the whole amount of the demesne rents will be 70,000 pounds, or 210,000 of our money. This, though almost a fourth less than the sum stated by Vitalis, still seems a great deal too high, if we should suppose the whole sum, as that author does, to be paid in money, and that money to be reckoned by real pounds of silver. But we must observe, that, when sums of money are set down in old laws and records, the interpretation of those words, pounds and shillings, is for the most part oxen, sheep, corn and provision. When real coin money was to be paid, it was called white money, or *argentum album*, and was only in a certain stipulated proportion to what was rendered in kind; and that proportion generally very low. This method of paying rent, though it entirely overturns the prodigious idea of that monarch's pecuniary wealth, was far from being less conducive to his greatness. It enabled him to feed a multitude of people; one of the surest and largest sources of influence, and which always outbuys money in the traffick of affections. This revenue, which was the chief support of the dignity of our Saxon kings, was considerably increased by the revival of Danegelt, of the imposition of which we have already spoken, and which is supposed to have produced an annual income of 40,000 pounds of money as then valued.

The next branch of this king's revenue were the feudal duties, by him first introduced into England; namely,

BOOK III. A. D. 1070

ward, marriage, relief, and aids. By the first, the heir of every tenant, who held immediately from the crown, during his minority was in ward for his body and his land to the king; so that he had the formation of his mind at that early and ductile age to mould to his own purposes, and the entire profits of his estate, either to augment his demesne, or to gratify his dependents. And as we have already seen how many and how vast estates, or rather princely possessions, were then held immediately of the crown, we may comprehend how important an article this must have been.

Though the heir had attained his age before the death of his ancestor, yet the king intruded between him and his inheritance; and obliged him to redeem, or as the term then was, to relieve it. The quantity of this relief was generally pretty much at the king's discretion; and often amounted to a very great sum.

But the king's demands on his rents in chief were not yet satisfied. He had a right and interest in the marriage of heirs, both males and females, virgins and widows; and either bestowed them at pleasure on his favourites, or sold them to the best bidder. The king received for the sale of one heiress the sum of 20,000*l.* or 60,000*l.* of our present money; and this at a period, when the chief estates were much reduced. And from hence was derived a great source of revenue, if this right were sold; of influence and attachment, if bestowed.

Under the same head of feudal duties were the casual aids to knight his eldest son, and marry his eldest daughter. These duties could be paid but once, and, though not considerable, eased him in these articles of expenses.

After the feudal duties, rather in the order than in point of value, was the profit which arose from the sale of justice. No man could then sue in the king's court by a common or public right, or without paying largely for it; sometimes the third, and sometimes even half, the value of the estate or debt sued for. These presents were called oblations; and the records preceding Magna Charta, and for some time after, are full of them. And, as the king thought fit, this must have added greatly to his power or wealth, or indeed to both.

The fines and amercements were another branch; and this, at a time when disorders abounded, and almost every disorder was punished by a fine, was a much greater article than at first could readily be imagined; especially

when we consider that there were no limitations in this point but the king's mercy, particularly in all offences relating to the forest, which were of various kinds, and very strictly inquired into. The sale of offices was not less considerable. It apperrs that all offices, at that time, were, or might be, legally and publicly sold; that the king had many and very rich employments in his gift, and, though it may appear strange, not inferior to, if they did not exceed in number and consequence, those of our present establishment. At one time the great seal was sold for 3000 marks. The office of sheriff was then very lucrative; this charge was almost always sold. Sometimes a county paid a sum to the king, that he might appoint a sheriff whom they liked; sometimes they paid as largely to prevent him from appointing a person disagreeable to them: and thus the king had often, from the same office, a double profit in refusing one candidate, and approving the other. If some offices were advantageous, others were burthensome; and the king had the right, or was at least in the unquestioned practice of forcing his subjects to accept these employments, or to pay for their immunity, by which means he could either punish his enemies, or augment his wealth, as his avarice or his resentments prevailed.

The greatest part of the cities and trading towns were under his particular jurisdiction, and indeed in a state not far removed from slavery. On these he laid a sort of imposition at such a time, and in such a proportion, as he thought fit. This was called a *talliage*. If the towns did not forthwith pay the sum at which they were rated, it was not unusual, for their punishment, to double the exaction, and to proceed in levying it by nearly the same methods, and in the same manner now used to raise a contribution in an enemies' country.

But the Jews were a fund almost inexhaustible. They were slaves to the king in the strictest sense; insomuch that, besides the various talliages and fines extorted from them, none succeeded to the inheritance of his father without the king's license, and a heavy composition. He sometimes even made over a wealthy Jew as a provision to some of his favourites for life. They were almost the only persons who exercised usury, and thus drew to themselves the odium and wealth of the whole kingdom; but they were only a canal, through which it passed to the royal treasury. And nothing could be

BOOK III. A. D. 1070

more pleasing and popular than such exactions; the people rejoiced when they saw the Jews plundered, not considering that they were a sort of agents for the crown, who, in proportion to the heavy taxes they paid, were obliged to advance the terms, and enforce with greater severity the execution of their usurious contracts. Through them almost the whole body of the nobility were in debt to the king; and when he thought proper to confiscate the effects of the Jews, the securities passed into his hands; and by this means he must have possessed one of the strongest and most terrible instruments of authority, that could possibly be devised, and the best calculated to keep the people in an abject and slavish dependence.

The last general head of his revenue were the customs, prisages, and other impositions upon trade. Though the revenue arising from traffick, in this rude period, was much limited by the then smallness of its object, this was compensated by the weight and variety of the exactions levied by an occasional exertion of arbitrary power, or the more uniform system of hereditary tyranny. Trade was restrained, or the privilege granted, on the payment of tolls, passages, paages, pontages, and innumerable other vexatious imposts, of which only the barbarous and almost unintelligible names subsist at this day.

These were the most constant and regular branches of the revenue. But there were other ways innumerable, by which money, or an equivalent in cattle, poultry, horses, hawks, and dogs, accrued to the exchequer. The king's interposition in marriages, even where there was no pretence from tenure, was frequently bought; as well as in other negotiations of less moment, for composing of quarrels, and the like; and indeed some appear on the records of so strange and even ludicrous a nature, that it would not be excusable to mention them, if they did not help to show from how many minute sources this revenue was fed, and how the king's power descended to the most inconsiderable actions of private life.* It is not easy to penetrate into the true meaning of all these particulars; but they equally suffice to show the character of govern-

* The bishop of Winchester fined for not putting the king in mind to give a girdle to the countess of Albemarle. Robertus de Vallibus debet quinque optimos Pallfridos ut rex taceret de uxore Henrici Pinel. The wife of Hugh de Nevil fined in two hundred hens, that she might lie with her husband for one night;—another, that he might rise from his infirmity;—a third, that he might eat.

ment in those times. A prince, furnished with so many means of distressing enemies, and gratifying friends, and possessed of so ample a revenue entirely independent of the affections of his subjects, must have been very absolute in substance and effect, whatever might have been the external forms of government.

For the regulation of all these revenues, and for determining all questions which concerned them, a court was appointed upon the model of a court of the same nature, said to be of ancient use in Normandy, and called the exchequer.

There was nothing in the government of William conceived in a greater manner, or more to be commended, than the general survey he took of his conquest. An 1081 inquisition was made throughout the kingdom, concerning the quantity of land which was contained in each county, the name of the deprived and the present proprietor, the stock of slaves and cattle of every kind which it contained. All these were registered in a book, each article beginning with the king's property, and proceeding downward, according to the rank of the proprietors, in an excellent order; by which might be known at one glance the true state of the royal revenues; the wealth, consequence, and natural connexions of every person in the kingdom; in order to ascertain the taxes that might be imposed, and, to serve purposes in the state as well as in civil causes, to be general and uncontrolable evidence of property. This book is called Domesday, or the Judgment Book, and still remains a grand monument of the wisdom of the conqueror; a work in all respects useful, and worthy of a better age.

The conqueror knew very well how much discontent must have arisen from the great revolutions which his conquest produced in all men's property, and in the general tenor of the government. He, therefore, as much as possible to guard against every sudden attempt, forbad any light or fire to continue in any house after a certain bell, called curfew, had sounded. This bell rung at about eight in the evening.

There was policy in this; and it served to prevent the numberless disorders which arose from the late civil commotions. For the same purpose of strengthening his authority, he introduced the Norman law, not only in its substance, but in all its forms; and ordered that all proceedings should be had according to that law in the

BOOK III. A. D. 1081

French language.* The change, wrought by the former part of this regulation, could not have been very grievous, and it was partly the necessary consequence of the establishment of the new tenures, and which wanted a new law to regulate them. In other respects, the Norman institutions were not very different from the English. But to force against nature a new language upon a conquered people; to make them strangers in those courts of justice in which they were still to retain a considerable share; to be reminded every time they had recourse to government for protection of the slavery in which it held them; this is one of those acts of superfluous tyranny, from which very few conquering nations or parties have forborne, though no way necessary, but often prejudicial to their safety. These severities, and affronts more galling than severities, drove the English to another desperate attempt, which was the last convulsive effort of their expiring freedom. Several nobles, prelates, and others, whose estates had been confiscated, or who were in daily apprehension of their confiscation, fled into the fens of Lincoln and Ely, where Hereward still maintained his ground. This unadvised step completed the ruin of the little English interest that remained. William hastened to fill up the sees of the bishops, and the estates of the nobles, with his Norman favourites. He pressed the fugitives with equal vivacity; and, at once to cut off all the advantage they derived from their situation, he penetrated into the Isle of Ely by a wooden bridge two miles in length; and by the greatness of the design and rapidity of the execution, as much as by the vigour of his charge, compelled them to surrender at discretion. Hereward alone escaped, who disdained to surrender, and had cut his way through his enemies, carrying his virtue and his sword as his passports wheresoever fortune should conduct him. He escaped happily into Scotland; where, as usual, the king was making some slow movements for the relief of the English. William lost no time to oppose him, and had passed, with infinite difficulty, through a desart of his own making, to the frontiers of Scotland. Here he found the enemy strongly intrenched. The causes of the war being in a good measure spent by William's late successes, and neither of the princes choosing

* For some particulars of the condition of the English of this time, vide Eadmer, p. 110.

to risk a battle in a country where the consequences of a defeat must be so dreadful, they agreed to an accommodation, which included a pardon for Edgar Atheling, on a renunciation of his title to the crown. CHAP. II. A. D. 1081

William on this occasion showed, as he did on all occasions, an honourable and disinterested sense of merit, by receiving Hereward to his friendship, and distinguishing him by particular favours and bounties. Malcolm, by his whole conduct, never seemed intent upon coming to extremities with William; he was satisfied with keeping this great warrior in some awe, without bringing things to a decision, that might involve his kingdom in the same calamitous fate that had oppressed England; whilst his wisdom enabled him to reap advantages from the fortunes of the conquered, in drawing so many useful people into his dominions; and from the policy of the conquerors in imitating those feudal regulations which he saw his neighbour force upon the English, and which appeared so well calculated for the defence of the kingdom. He compassed this the more easily, because the feudal policy, being the discipline of all the considerable states in Europe, appeared the masterpiece of government.

If men, who have engaged in vast designs, could ever promise themselves repose, William, after so many victories, and so many political regulations to secure the fruit of them, might now flatter himself with some hope of quiet; but disturbances were preparing for his old age from a new quarter, from whence they were less expected and less tolerable; from the Normans, his companions in victory, and from his family, which he found not less difficulty in governing than his kingdom. Nothing but his absence from England was wanting to make the flame blaze out. The numberless petty pretensions which the petty lords, his neighbours on the continent, had on each other, and on William; together with their restless disposition, and the intrigues of the French court, kept alive a constant dissension, which made the king's presence on the continent frequently necessary. The duke of Anjou had at this time actually invaded his dominions; he was obliged to pass over into Normandy with an army of fifty thousand men. William, who had conquered England by the assistance of the princes on the continent, now turned against them the arms of the English, who served him with bravery and fidelity; and by their means he soon silenced all opposition, and concluded the terms 1082

BOOK III. A. D. 1082

of an advantageous peace. In the mean time his Norman subjects in England, inconstant, warlike, independent, fierce by nature, fiercer by their conquest, could scarcely brook that subordination in which their safety consisted. Upon some frivolous pretences, chiefly personal* disgusts, a most dangerous conspiracy was formed; the principal men among the Normans were engaged in it, and foreign correspondence was not wanting. Though this conspiracy was chiefly formed and carried on by the Normans, they knew so well the use which William, on this occasion, would not fail to make of his English subjects, that they endeavoured, as far as was consistent with secrecy, to engage several of that nation; and above all, the Earl Waltheof, as the first in rank and reputation among his countrymen. Waltheof thinking it base to engage in any cause but that of his country, against his benefactor, unveils the whole design to Lanefranc, who immediately took measures for securing the chief conspirators. He despatched messengers to inform the king of his danger, who returned without delay at the head of his forces; and by his presence, and his usual bold activity, dispersed at once the vapours of this conspiracy. The heads were punished. The rest, left under the shade of a dubious mercy, were awed into obedience. His glory was however sullied by his putting to death Waltheof, who had discovered the conspiracy; but he thought the desire the rebels had shown of engaging him in their designs, demonstrated sufficiently, that Waltheof still retained a dangerous power. For as the years, so the suspicions of this politic prince, increased; at whose time of life generosity begins to appear no more than a splendid weakness.

These troubles were hardly appeased, when others began to break forth in his own family, which neither his glory, nor the terror which held a great nation in chains, could preserve in obedience to him. To remove in some measure the jealousy of the court of France, with regard to his invasion of England, he had promised, upon his acquisition of that kingdom, to invest his eldest son Robert with the duchy of Normandy. But, as his new acquisition did not seem so secure as it was great and magnificent, he was far from any thoughts of resigning his hereditary dominions, which he justly consider-

* Upon occasion of a ward refused in marriage. *Wright* thinks the feudal right of marriage not then introduced.

ed as a great instrument in maintaining his conquests, and a necessary retreat if he should be deprived of them by the fortune of war. So long as the state of his affairs in England appeared unsettled, Robert acquiesced in the reasonableness of this conduct; but when he saw his father established on his throne, and found himself growing old in an inglorious subjection, he began first to murmur at the injustice of the king, soon after to cabal with the Norman barons, and at the court of France, and at last openly rose in rebellion, and compelled the vassals of the duchy to do him homage. The king was not inclined to give up to force what he had refused to reason. Unbroken with age, unwearied with so many expeditions, he passed again into Normandy, and pressed his son with the vigour of a young warrior.

This war, which was carried on without any thing decisive for some time, ended by a very extraordinary and affecting incident. In one of those skirmishes, which were frequent, according to the irregular mode of warfare in those days, William and his son Robert, alike in a forward and adventurous courage, plunged into the thickest of the fight, and unknowingly encountered each other. But Robert, superior by fortune, or by the vigour of his youth, wounded and unhorsed the old monarch; and was just on the point of pursuing his unhappy advantage to the fatal extremity, when the well-known voice of his father at once struck his ears and suspended his arm. Blushing for his victory, and overwhelmed with the united emotions of grief, shame, and returning piety, he fell on his knees, poured out a flood of tears, and embracing his father, besought him for pardon. The tide of nature returning strongly on both, the father in his turn embraced his son, and bathed him with his tears; whilst the combatants on either side, astonished at so unusual a spectacle, suspended the fight, applauded this striking act of filial piety and paternal tenderness, and pressed that it might become the prelude to a lasting peace. Peace was made; but entirely to the advantage of the father, who carried his son into England, to secure Normandy from the dangers to which his ambition and popularity might expose that dukedom.

That William might have peace upon no part, the Welsh and Scots took advantage of these troubles in his family to break into England; but their expeditions were

BOOK III. A. D. 1083

rather incursions than invasions; they wasted the country, and then retired to secure their plunder. But William always troubled, always in action, and always victorious, pursued them, and compelled them to a peace; which was not concluded but by compelling the king of Scotland, and all the princes of Wales, to do him homage. How far this homage extended with regard to Scotland, I find it difficult to determine.

Robert, who had no pleasure but in action, as soon as this war was concluded, finding that he could not regain his father's confidence, and that he had no credit at the court of England, retired to that of France. Edgar Atheling saw likewise, that the innocence of his conduct could not make amends for the guilt of an undoubted title to the crown; and that the conqueror, soured by continual opposition, and suspicious through age and the experience of mankind, regarded him with an evil eye. He therefore desired leave to accompany Robert out of the kingdom, and then to make a voyage to the Holy Land: this leave was readily granted. Edgar, having displayed great valour in useless acts of chivalry abroad, after the conqueror's death returned to England, where he long lived in great tranquillity, happy in himself, beloved by all the people, and unfeared by those who held his sceptre, from his mild and inactive virtue.

1084 William had been so much a stranger to repose, that it became no longer an object desirable to him. He revived his claim to the Vexin François, and some other territories on the confines of Normandy. This quarrel, which began between him and the king of France on political motives, was increased into rancour and bitterness, first by a boyish contest at chess between their children, which was resented more than became wise men, by the fathers; it was further exasperated by taunts and mockeries yet less becoming their age and dignity, but which

1087 infused a mortal venom into the war. William entered first into the French territories, wantonly wasting the country, and setting fire to the towns and villages. He entered Mantes, and as usual set it on fire; but, whilst he urged his horse over the smoaking ruins, and pressed forward to further havoc, the beast, impatient of the hot embers which burned his hoof, plunged, and threw his rider violently on the saddle bow. The rim of his belly was wounded; and this wound, as William was corpulent and in the decline of life, proved fatal. A rupture

ensued, and he died at Rouen; after showing a desire of making amends for his cruelty by restitutions to the towns he had destroyed, by alms and endowments, the usual fruits of a late penitence, and the acknowledgments which expiring ambition pays to virtue.

There is nothing more memorable in history than the actions, fortunes, and character of this great man; whether we consider the grandeur of the plans he formed, the courage and wisdom with which they were executed, or the splendour of that success, which, adorning his youth, continued without the smallest reverse to support his age, even to the last moments of his life. He lived above seventy years, and reigned within ten years as long as he lived; sixty over his dukedom, above twenty over England; both of which he acquired or kept by his own magnanimity, with hardly any other title than he derived from his arms; so that he might be reputed, in all respects, as happy as the highest ambition, the most fully gratified, can make a man. The silent inward satisfactions of domestic happiness he neither had nor sought. He had a body suited to the character of his mind, erect, firm, large, and active; whilst to be active was a praise; a countenance stern, and which became command. Magnificent in his living, reserved in his conversation, grave in his common deportment, but relaxing with a wise facetiousness, he knew how to relieve his mind and preserve his dignity; for he never forfeited by a personal acquaintance that esteem he had acquired by his great actions. Unlearned in books, he formed his understanding by the rigid discipline of a large and complicated experience. He knew men much, and therefore generally trusted them but little; but when he knew any man to be good, he reposed in him an entire confidence, which prevented his prudence from degenerating into a vice. He had vices in his composition, and great ones; but they were the vices of a great mind: ambition, the malady of every extensive genius; and avarice, the madness of the wise: one chiefly actuated his youth, the other governed his age. The vices of young and light minds, the joys of wine, and the pleasures of love, never reached his aspiring nature. The general run of men he looked on with contempt, and treated with cruelty when they opposed him. Nor was the rigour of his mind to be softened but with the appearance of extraordinary fortitude in his enemies, which, by a sympathy congenial to his own

BOOK III. A. D. 1087

virtues, always excited his admiration and insured his mercy. So that there was often seen in this one man, at the same time, the extremes of a savage cruelty, and a generosity that does honour to human nature. Religion too seemed to have a great influence on his mind, from policy, or from better motives; but his religion was displayed in the regularity with which he performed its duties; not in the submission he showed to its ministers, which was never more than what good government required. Yet his choice of a counsellor and favourite was, not according to the mode of the time, out of that order, and a choice that does honour to his memory. This was Lancfranc, a man of great learning for the times, and extraordinary piety. He owed his elevation to William; but, though always inviolably faithful, he never was the tool or flatterer of the power which raised him; and the greater freedom he showed, the higher he rose in the confidence of his master. By mixing with the concerns of state, he did not lose his religion and conscience, or make them the covers or instruments of ambition; but, tempering the fierce policy of a new power by the mild lights of religion, he became a blessing to the country in which he was promoted. The English owed to the virtue of this stranger, and the influence he had on the king, the little remains of liberty they continued to enjoy; and at last such a degree of his confidence, as in some sort counterbalanced the severities of the former part of his reign.

CHAP. III.

Reign of William the Second, surnamed Rufus.

William had, by his queen Matilda, three sons, who survived him, Robert, William, and Henry. Robert, though in an advanced age at his father's death, was even then more remarkable for those virtues which make us entertain hopes of a young man, than for that steady prudence, which is necessary when the short career we are to run will not allow us to make many mistakes. He had indeed a temper suitable to the genius of the time he lived in, and which therefore enabled him to make a considerable figure in the transactions which distinguished

that period. He was of a sincere, open, candid nature; passionately fond of glory; ambitious without having any determinate object in view; vehement in his pursuits, but inconstant; much in war, which he understood and loved. But guiding himself both in war and peace solely by the impulses of an unbounded and irregular spirit, he filled the world with an equal admiration and pity of his splendid qualities and great misfortunes.

William was of a character very different. His views were short, his designs few, his genius narrow, and his manners brutal; full of craft, rapacious, without faith, without religion; but circumspect, steady and courageous for his ends, not for glory. These qualities secured to him that fortune which the virtues of Robert deserved. Of Henry we shall speak hereafter. We have seen the quarrels, together with the causes of them, which embroiled the conqueror with his eldest son Robert. Although the wound was skinned over by several temporary and palliative accommodations, it still left a soreness in the father's mind, which influenced him, by his last will, to cut off Robert from the inheritance of his English dominions. Those, he declared, he derived from his sword, and therefore he would dispose of them to that son, whose dutiful behaviour made him the most worthy. To William, therefore, he left his crown; to Henry, he devised his treasures; Robert possessed nothing but the duchy, which was his birthright. William had some advantages to enforce the execution of a bequest which was not included even in any of the modes of succession which then were admitted. He was at the time of his father's death in England, and had an opportunity of seizing the vacant government, a thing of great moment in all disputed rights. He had also, by his presence, an opportunity of engaging some of the most considerable leading men in his interests; but his greatest strength was derived from the adherence to his cause of Lanefranc, a prelate of the 1088
greatest authority amongst the English as well as the Normans, both from the place he had held in the conqueror's esteem, whose memory all men respected, and from his own great and excellent qualities. By the advice of this prelate the new monarch professed to be entirely governed. And, as an earnest of his future reign, he renounced all the rigid maxims of conquest; and swore to protect the church and the people, and to govern by St. Edward's laws; a promise extremely grateful and po-

BOOK III. A. D. 1088

pular to all parties: for the Normans, finding the English passionately desirous of these laws, and only knowing that they were in general favourable to liberty, and conducive to peace and order, became equally clamorous for their re-establishment.

By these measures, and the weakness of those which were adopted by Robert, William established himself on his throne; and suppressed a dangerous conspiracy, formed by some Norman noblemen in the interests of his brother; although it was fomented by all the art and intrigue which his uncle Odo could put in practice, the most bold and politic man of that age.

The security he began to enjoy from this success, and the strength which government receives by merely continuing, gave room to his natural dispositions to break out in several acts of tyranny and injustice. The forest laws were executed with rigour, the old impositions revived, and new laid on. Lancfranc made representations to the king on this conduct, but they produced no other effect than the abatement of his credit, which, from that moment to his death, which happened soon after, was very little in the government. The revenue of the va-
1089 cant see was seized into the king's hands. When the church lands were made subject to military service, they seemed to partake all the qualities of the military tenure, and to be subject to the same burthens; and as on the death of a military vassal, his land was in wardship of the lord until the heir had attained his age, so there arose a pretence on the vacancy of a bishopric, to suppose the land in ward with the king, until the seat should be filled. This principle, once established, opened a large field for various lucrative abuses; nor could it be supposed, whilst the vacancy turned to such good account, that a necessitous or avaricious king would show any extraordinary haste to put the bishoprics and abbacies out of his power. In effect, William always kept them a long time vacant, and in the vacancy granted away much of their possessions, particularly several manors belonging to the see of Canterbury; and when he filled this see, it was only to prostitute that dignity by disposing of it to the highest bidder.

To support him in these courses, he chose for his minister Ralf Flambard, a fit instrument in his designs, and possessed of such art and eloquence as to colour them in a specious manner. This man inflamed all the

king's passions, and encouraged him in his unjust enterprizes. It is hard to say which was most unpopular, the king or his minister. But Flambard having escaped a conspiracy against his life, and having punished the conspirators severely, struck such a general terror into the nation, that none dared to oppose him. Robert's title alone stood in the king's way, and he knew that this must be a perpetual source of disturbance to him. He resolved, therefore, to put him in peril for his own dominions. He collected a large army, and entering into Normandy, he began a war, at first with great success, on account of a difference between the duke and his brother Henry; but their common dread of William reconciled them: and this reconciliation put them in a condition of procuring an equal peace; the chief conditions of which were, that Robert should be put in possession of certain seignories in England, and that each, in case of survival, should succeed to the other's dominions. William concluded this peace the more readily, because Malcolm, king of Scotland, who hung over him, was ready, upon every advantage, to invade his territories, and had now actually entered England with a powerful army. Robert, who courted action without regarding what interest might have dictated, immediately on concluding the treaty entered into his brother's service in this war against the Scots; which, on the king's return, being in appearance laid asleep by an accommodation, broke out with redoubled fury the following year. The king of Scotland, provoked to this rupture by the haughtiness of William, was circumvented by the artifice and fraud of one of his ministers: under an appearance of negotiation he was attacked and killed, together with his only son. This was a grievous wound to Scotland in the loss of one of the wisest and bravest of her kings; and in the domestic distractions which afterwards tore that kingdom to pieces.

CHAP. III.

A. D. 1093

1093

No sooner was this war ended, than William, freed from an enemy which had given himself and his father so many alarms, renewed his ill treatment of his brother, and refused to abide by the terms of the late treaty. Robert, incensed at these repeated perfidies, returned to Normandy, with thoughts full of revenge and war. But he found that the artifices and bribes of the king of England had corrupted the greatest part of his barons, and filled the country with faction and disloyalty. His own

1094

BOOK III. facility of temper had relaxed all the bands of government, and contributed greatly to these disorders. In
A. D. this distress, he was obliged to have recourse to the king
1094 of France for succour. Philip, who was then on the throne, entered into his quarrel. Nor was William on his side backward; though prodigal to the highest degree, the resources of his tyranny and extortion were inexhaustible. He was enabled to enter Normandy once more, with a considerable army. But the opposition too was considerable; and the war had probably been spun out to a great length, and had drawn on very bloody con-
1096 sequences, if one of the most extraordinary events which are contained in the history of mankind, had not suspended their arms, and drawn all inferior views, sentiments, and designs, into the vortex of one grand project. This was the Crusade, which, with astonishing success, now began to be preached through all Europe. This design was then, and it continued long after, the principle which influenced the transactions of that period, both at home and abroad; it will, therefore, not be foreign to our subject to trace it to its source.

As the power of the papacy spread, the see of Rome began to be more and more an object of ambition; the most refined intrigues were put in practice to attain it; and all the princes of Europe interested themselves in the contest. The election of pope was not regulated by those prudent dispositions which have since taken place; there were frequent pretences to controvert the validity of the election, and of course, several persons at the same time laid claim to that dignity. Popes and anti-popes arose. Europe was rent asunder by these disputes, whilst some princes maintained the rights of one party, and some defended the pretensions of the other; sometimes the prince acknowledged one pope, whilst his subjects adhered to his rival. The scandals occasioned by these schisms were infinite; and they threatened a deadly wound to that authority whose greatness had occasioned them. Princes were taught to know their own power. That pope, who this day was a suppliant to a monarch to be recognized by him, could, with an ill grace, pretend to govern him with an high hand the next. The lustre of the holy see began to be tarnished; when Urban the Second, after a long contest of this nature, was universally acknowledged. That pope, sensible, by his own experience, of the ill consequence of

such disputes, sought to turn the minds of the people into another channel; and, by exerting it vigorously, to give a new strength to the papal power. In an age so ignorant, it was very natural that men should think a great deal in religion depended upon the very scene where the work of our redemption was accomplished. Pilgrimages to Jerusalem were therefore judged highly meritorious, and became very frequent. But the country which was the object of them, as well as several of those through which the journey lay, were in the hands of Mahometans; who, against all the rules of humanity and good policy, treated the christian pilgrims with great indignity. These, on their return, filled the minds of their neighbours with hatred and resentment against those infidels. Pope Urban laid hold on this disposition, and encouraged Peter the Hermit, a man visionary, zealous, enthusiastic, and possessed of a warm irregular eloquence, adapted to the pitch of his hearers, to preach an expedition for the delivery of the holy land.

Great designs may be started, and the spirit of them inspired by enthusiasts, but cool heads are required to bring them into form. The pope, not relying solely on Peter, called a council at Clermont, where an infinite number of people of all sorts were assembled; here he dispensed, with a full hand, benedictions and indulgences to all persons who should engage in the expedition; and preaching with great vehemence in a large plain, towards the end of his discourse, somebody, by design or by accident, cried out, "It is the will of God!" this voice was repeated by the next, and in a moment it circulated through this innumerable people, which rang with the acclamation of "It is the will of God! it is the will of God!" The neighbouring villages caught up those oracular words, and it is incredible with what celerity they spread every where around into places the most distant. This circumstance, then considered as miraculous, contributed greatly to the success of the Hermit's mission. No less did the disposition of the nobility throughout Europe, wholly actuated with devotion and chivalry, contribute to forward an enterprize so suited to the gratification of both these passions. Every thing was now in motion; both sexes, and every station, and age, and condition of life, engaged, with transport in this holy warfare. There was even a danger that Europe would be

Malmbourg

BOOK III. A. D. 1096 Chron. Sax. 204

entirely exhausted by the torrents that were rushing out to deluge Asia. These vast bodies, collected without choice, were conducted without skill or order; and they succeeded accordingly. Women and children composed no small part of those armies, which were headed by priests; and it is hard to say which is most lamentable, the destruction of such multitudes of men, or the frenzy which drew it upon them. But this design, after innumerable calamities, began at last to be conducted in a manner worthy of so grand and bold a project. Raimond, count of Tholouse, Godfrey of Boulogne, and several other princes, who were great captains as well as devotees, engaged in the expedition, and with suitable effects. But none burned more to signalize his zeal and courage on this occasion, than Robert duke of Normandy, who was fired with the thoughts of an enterprize, which seemed to be made for his genius. He immediately suspended his interesting quarrel with his brother, and instead of contesting with him the crown, to which he had such fair pretensions, or the duchy, of which he was in possession, he proposed to mortgage to him the latter during five years, for a sum of 13,000 marks of gold. William, who had neither sense of religion, nor thirst of glory, intrenched in his secure and narrow policy, laughed at a design that had deceived all the great minds in Europe. He extorted, as usual, this sum from his subjects; and immediately took possession of Normandy; whilst Robert, at the head of a gallant army, leaving his hereditary dominions, is gone to cut out unknown kingdoms in Asia.

Some conspiracies disturbed the course of the reign, or rather tyranny of this prince; as plots usually do, they ended in the ruin of those who contrived them, but proved no check to the ill government of William. Some disturbances too he had from the incursions of the Welsh; from revolts in Normandy, and from a war, that began and ended without any thing memorable either in the cause or consequence, with France.

He had a dispute at home, which at another time had raised great disturbances; but nothing was now considered but the expedition to the holy land. After the death of Lancfranc, William omitted for a long time to fill up that see, and had even alienated a considerable portion of the revenue; a fit of sickness, however, softened his mind, and the clergy, taking advantage of those happy

moments, among other parts of mis-government which they advised him to correct, particularly urged him to fill the vacant sees. He filled that of Canterbury with Anselm, bishop of Beck, a man of great piety and learning, but inflexible and rigid in whatever related to the rights, real or supposed, of the church. This prelate refused to accept the see of Canterbury, foreseeing the troubles that must arise from his own dispositions and those of the king; nor was he prevailed upon to accept it but on a promise of indemnification for what the temporalities of the see had suffered. But William's sickness and pious resolutions ending together, little care was taken about the execution of this agreement. This began a quarrel between this rapacious king and inflexible archbishop. Soon after Anselm declared in favour of Pope Urban, before the king had recognized him, and thus subjected himself to the law, which William the Conqueror had made, against accepting a pope without his consent. The quarrel was inflamed to the highest pitch; and Anselm desiring to depart the kingdom, the king consented.

1100

The eyes of all men being now turned towards the great transactions in the east, William duke of Guienne, fired by the success and glory that attended the holy adventurers, resolved to take the cross; but his revenues were not sufficient to support the figure his rank required in this expedition. He applied to the king of England; who, being master of the purses of his subjects, never wanted money; and he was politician enough to avail himself of the prodigal inconsiderate zeal of the times to lay out this money to great advantage. He acted the part of usurer to the Croises; and as he had taken Normandy in mortgage from his brother Robert, having advanced the duke of Guienne a sum on the same conditions, he was ready to confirm his bargain by taking possession, when he was killed in hunting by an accidental stroke of an arrow, which pierced his heart. This accident happened in the New Forest, which his father, with such infinite oppression of the people, had made, and in which they both delighted extremely. In the same forest the conqueror's eldest son, a youth of great hopes, had, several years before, met his death from the horns of a stag; and these so memorable fates of the same family, and in the same place, easily inclined men to think this a judgment from heaven; the people consoling themselves

BOOK III. under their sufferings with these equivocal marks of the vengeance of providence upon their oppressors.

A. D. 1100 We have painted this prince in the colours in which he is drawn by all the writers who lived the nearest to his time. Although the monkish historians, affected with the partiality of their character, and with the sense of recent injuries, expressed themselves with passion concerning him, we have no other guides to follow. Nothing indeed in his life appears to vindicate his character; and it makes strongly for his disadvantage, that without any great end of government, he contradicted the prejudices of the age in which he lived, the general and common foundation of honour; and thereby made himself obnoxious to that body of men, who had the sole custody of fame, and could alone transmit his name with glory or disgrace to posterity.

CHAP. IV.

Reign of Henry I.

Henry, the youngest son of the conqueror, was hunting at the same time, and in the same forest, in which his brother met his fate. He was not long before he came to a resolution of seizing on the vacant crown. The order of succession had already been broken; the absence of Duke Robert, and the concurrence of many circumstances altogether resembling those which had been so favourable to the late monarch, incited him to a similar attempt. To lose no time, at a juncture when the use of a moment is often decisive, he went directly to Winchester, where the regalia and the treasures of the crown were deposited. But the governor, a man of resolution, and firmly attached to Robert, positively refused to deliver them. Henry, conscious that great enterprizes are not to be conducted in a middle course, prepared to reduce him by force of arms. During this contest, the news of the king's death, and the attempts of Henry, drew great numbers of the nobility to Winchester, and with them a vast concourse of the inferior people. To the nobility he set forth his title to the crown in the most plausible manner it could bear; he alleged that he was born after his father had acquired

his kingdom, and that he was therefore natural heir of the crown; but that his brother was, at best, only born to the inheritance of a dukedom. The nobility heard the claim of this prince: but they were more generally inclined to Robert, whose birthright, less questionable in itself, had been also confirmed by a solemn treaty. But whilst they retired to consult, Henry, well apprized of their dispositions, and who therefore was little inclined to wait the result of their debates, threw himself entirely upon the populace. To them he said little concerning his title, as he knew such an audience is little moved with a discussion of rights, but much with the spirit and manner in which they are claimed; for which reason he began by drawing his sword, and swearing, with a bold and determined air, to persist in his pretensions to his last breath. Then turning to the crowd, and remitting of his severity, he began to sooth them with the promises of a milder government than they had experienced either beneath his brother or his father: the church should enjoy her immunities, the people their liberties, the nobles their pleasures; the forest laws should cease, the distinction of Englishman and Norman be heard no more. Next he expatiated on the grievances of the former reigns, and promised to redress them all. Lastly, he spoke of his brother Robert, whose dissoluteness, whose inactivity, whose unsteady temper, nay, whose very virtues threatened nothing but ruin to any country which he should govern. The people received this popular harangue, delivered by a prince whose person was full of grace and majesty, with shouts of joy and rapture. Immediately they rush to the house where the council is held, which they surround; and with clamour and menaces demand Henry for their king. The nobility were terrified by the sedition; and remembering how little present Robert had been on a former occasion to his own interests, or to those who defended him, they joined their voice to that of the people, and Henry was proclaimed without opposition. The treasure, which he seized, he divided amongst those that seemed wavering in his cause; and that he might secure his new and disputed right by every method, he proceeded without delay to London to be crowned, and to sanctify, by the solemnity of the unction, the choice of the people. As the churchmen in those days were the arbiters of every thing; and as no churchman possessed

BOOK III. more credit than Anselm, archbishop of Canterbury, who had been persecuted and banished by his brother, he recalled that prelate, and by every mark of confidence confirmed him in his interests. Two other steps he took equally prudent and politic; he confirmed and enlarged the privileges of the city of London; and gave to the whole kingdom a charter of liberties, which was the first of the kind, and laid the foundation of those successive charters, which at last completed the freedom of the subject. In fine, he cemented the whole fabric of his power by marrying Maude, daughter of Malcolm, king of Scotland, by the sister of Edgar Atheling; thus to ensure the affection of the English, and, as he flattered himself, to have a sure succession to his children.

A. D. 1101

The Crusade being successfully finished by the taking of Jerusalem, Robert returned into Europe. He had acquired great reputation in that war, in which he had no interest; his real and valuable rights he prosecuted with languor. Yet such was the respect paid to his title, and such the attraction of his personal accomplishments, that when he had at last taken possession of his Norman territories, and entered England with an army to assert his birthright, he found most of the Norman barons, and many of the English, in readiness to join him. But the diligence of Anselm, who employed all his credit to keep the people firm to the oath they had taken, prevented him from profiting of the general inclination in his favour. His friends began to fall off by degrees, so that he was induced, as well by the situation of his affairs as the flexibility of his temper, to submit to a treaty on the plan of that he had formerly entered into with his brother Rufus.

This treaty being made, Robert returned to his dukedom, and gave himself over to his natural indolence and dissipation. Uncured by his misfortunes of a loose generosity, that flowed indiscriminately on all, he mortgaged every branch of his revenue, and almost his whole domain. His barons, despising his indigence, and secure in the benignity of his temper, began to assume the unhappy privilege of sovereigns. They made war on each other at pleasure, and, pursuing their hostilities with the most scandalous licence, they reduced that fine country to a deplorable condition. In vain did the people, ruined by the tyranny and divisions of the great, apply to Robert for protection; neither from his circumstances.

1103

nor his character, was he able to afford them any effectual relief: whilst Henry, who by his bribes and artifices kept alive the disorder of which he complained and profited, formed a party in Normandy to call him over, and to put the dukedom under his protection. Accordingly he prepared a considerable force for the expedition, and taxed his own subjects arbitrarily, and without mercy, for the relief he pretended to afford those of his brother. His preparations roused Robert from his indolence, and united likewise the greater part of his barons to his cause, unwilling to change a master, whose only fault was his indulgence of them, for the severe vigilance of Henry. The king of France espoused the same side; and even in England some emotions were excited in favour of the duke, by indignation for the wrongs he had suffered, and those he was going to suffer. Henry was alarmed, but did not renounce his design. He was to the last degree jealous of his prerogative; but knowing what immense resources kings may have in popularity, he called on this occasion a great council of his barons and prelates; and there, by his arts and his eloquence, in both which he was powerful, he persuaded the assembly to a hearty declaration in his favour, and to a large supply. Thus secured at home, he lost no time to pass over to the continent, and to bring the Norman army to a speedy engagement; they fought under the walls of Techenbray, where the bravery and military genius of Robert, never more conspicuous than on that day, were borne down by the superior fortune and numbers of his ambitious brother. He was made prisoner: and notwithstanding all the tender pleas of their common blood, in spite of his virtues, and even of his misfortunes, which pleaded so strongly for mercy, the rigid conqueror held him in various prisons until his death, which did not happen until after a rigorous confinement of eighteen, some say twenty-seven years. This was the end of a prince born with a thousand excellent qualities, which served no other purpose than to confirm, from the example of his misfortunes, that a facility of disposition, and a weak beneficence are the greatest vices that can enter into the composition of a monarch, equally ruinous to himself and to his subjects.

CHAP. IV.

A. D. 1103

1106

1107

The success of this battle put Henry in possession of Normandy, which he held ever after with very little disturbance; he fortified his new acquisition, by demolish-

BOOK III. A. D. 1108

ing the castles of those turbulent barons, who had wasted, and afterwards enslaved their country by their dissensions. Order and justice took place, until every thing was reduced to obedience; then a severe and regular oppression succeeded the former disorderly tyranny. In England things took the same course. The king no longer doubted his fortune, and therefore no longer respected his promises or his charter. The forests, the savage passion of the Norman princes, for which both the prince and people paid so dearly, were maintained, increased, and guarded with laws more rigorous than before. Taxes were largely and arbitrarily assessed. But all this tyranny did not weaken, though it vexed the nation, because the great men were kept in proper subjection, and justice was steadily administered.

The politics of this remarkable reign consisted of three branches:—to redress the gross abuses which prevailed in the civil government and the revenue; to humble the great barons, and keep the aspiring spirit of the clergy within proper bounds. The introduction of a new law with a new people, at the conquest, had unsettled every thing; for whilst some adhered to the conqueror's regulations, and others contended for those of St. Edward, neither of them were well executed, or properly obeyed. The king, therefore, with the assistance of his justiciaries, compiled a new body of laws, in order to find a temper between both. The coin had been miserably debased, but it was restored by the king's vigilance, and preserved by punishments, cruel, but terrifying in their example. There was a savageness in all the judicial proceedings of those days, that gave even justice itself the complexion of tyranny; for whilst a number of men were seen in all parts of the kingdom, some castrated, some without hands, others with their feet cut off, and in various ways cruelly mangled, the view of a perpetual punishment blotted out the memory of the transient crime, and government was the more odious, which, out of a cruel and mistaken mercy, to avoid punishing with death, devised torments far more terrible than death itself.

But nothing called for redress more than the disorders in the king's own household. It was considered as an incident annexed to their tenure, that the socage vassals of the crown, and so of all the subordinate barons, should receive their lord and all his followers, and supply them in their progresses and journeys, which custom continued

for some ages after in Ireland, under the name of cosherring. But this indefinite and ill-contrived charge on the tenant was easily perverted to an instrument of much oppression, by the disorders of a rude and licentious court; insomuch, that the tenants, in fear for their substance, for the honour of their women, and often for their lives, deserted their habitations, and fled into the woods on the king's approach. No circumstance could be more dishonourable to a prince; but happily, like many other great abuses, it gave rise to a great reform, which went much further than its immediate purposes. This disorder, which the punishment of offenders could only palliate, was entirely taken away by commuting personal service for a rent in money; which regulation, passing from the king to all the inferior lords, in a short time wrought a great change in the state of the nation. To humble the great men, more arbitrary methods were used. The adherence to the title of Robert was a cause or a pretence of depriving many of their vast possessions, which were split or parcelled out amongst the king's creatures, with great injustice to particulars, but in the consequences with general and lasting benefit. The king held his courts according to the custom at Christmas and Easter, but he seldom kept both festivals in the same place. He made continual progresses into all parts of his kingdom, and brought the royal authority and person home to the doors of his haughty barons, which kept them in strict obedience during his long and severe reign.

His contests with the church, concerning the right of investiture, were more obstinate and more dangerous. As this is an affair that troubled all Europe as well as England, and holds deservedly a principal place in the story of those times, it will not be impertinent to trace it up to its original. In the early times of christianity, when religion was only drawn from its obscurity to be persecuted, when a bishop was only a candidate for martyrdom, neither the preferment, nor the right of bestowing it, were sought with great ambition. Bishops were then elected, and often against their desire, by their clergy and the people; the subordinate ecclesiastical districts were provided for in the same manner. After the Roman empire became christian, this usage, so generally established, still maintained its ground. However, in the principal cities, the emperor frequently exercised the privilege of giving

BOOK III. A. D. 1108

a sanction to the choice, and sometimes of appointing the bishop; though, for the most part, the popular election still prevailed. But when the barbarians, after destroying the empire, had at length submitted their necks to the gospel, their kings and great men, full of zeal and gratitude to their instructors, endowed the church with large territories and great privileges. In this case it was but natural that they should be the patrons of those dignities, and nominate to that power which arose from their own free bounty. Hence the bishoprics in the greatest part of Europe became in effect, whatever some few might have been in appearance, merely donative. And as the bishoprics formed so many seigniories, when the feudal establishment was completed, they partook of the feudal nature, so far as they were subjects capable of it; homage and fealty were required on the part of the spiritual vassal; the king on his part gave the bishop the investiture, or livery and seisin of his temporalities, by the delivery of a ring and staff. This was the original manner of granting feudal property, and something like it is still practised in our base-courts. Pope Adrian confirmed this privilege to Charlemagne by an express grant. The clergy of that time, ignorant but inquisitive, were very ready at finding types and mysteries in every ceremony; they construed the staff into an emblem of the pastoral care, and the ring into a type of the bishop's allegorical marriage to his church, and therefore supposed them designed as emblems of a jurisdiction merely spiritual. The papal pretensions increased with the general ignorance and superstition; and, the better to support these pretensions, it was necessary at once to exalt the clergy extremely, and, by breaking off all ties between them and their natural sovereigns, to attach them wholly to the Roman see. In pursuance of this project, the pope first strictly forbad the clergy to receive investitures from laymen, or to do them homage. A council, held at Rome, entirely condemned this practice; and the condemnation was the less unpopular, because the investiture gave rise to frequent and flagrant abuses, especially in England, where the sees were on this pretence, with much scandal, long held in the king's hands; and afterwards as scandalously and publicly sold to the highest bidder. So it had been in the last reign, and so it continued in this.

Henry, though vigorously attacked, with great resolution maintained the rights of his crown with regard to investitures, whilst he saw the emperor, who claimed a right of investing the pope himself, subdued by the thunder of the Vatican. His chief opposition was within his own kingdom. Anselm, archbishop of Canterbury, a man of unblameable life and of learning for his time, but blindly attached to the rights of the church, real or supposed, refused to consecrate those who received investitures from the king. The parties appealed to Rome; Rome, unwilling either to recede from her pretensions, or to provoke a powerful monarch, gives a dubious answer. Meanwhile the contest grows hotter; Anselm is obliged to quit the kingdom, but is still inflexible: at last the king, who from the delicate situation of his affairs in the beginning of his reign had been obliged to temporize for a long time, by his usual prudent mixture of management with force, obliged the pope to a temperament, which seemed extremely judicious. The king received homage and fealty from his vassal; the investiture, as it was generally understood to relate to spiritual jurisdiction, was given up, and on this equal bottom peace was established. The secret of the pope's moderation was this: He was at that juncture close pressed by the emperor, and it might be highly dangerous to contend with two such enemies at once; and he was much more ready to yield to Henry, who had no reciprocal demands on him, than to the emperor, who had many and just ones, and to whom he could not yield any one point, without giving up an infinite number of others very material and interesting.

As the king extricated himself happily from so great an affair, so all the other difficulties of his reign only exercised without endangering him. The efforts of France in favour of the son of Robert, were late, desultory, and therefore unsuccessful. That youth, endued with equal virtue and more prudence than his father, after exerting many useless acts of unfortunate bravery, fell in battle, and freed Henry from all disturbance on the side of France. The incursions of the Welch in this reign, only gave him an opportunity of confining that people within narrower bounds. At home he was well obeyed by his subjects, abroad he dignified his family by splendid alliances. His daughter, Matilda, he married to the emperor; but his private fortunes did not flow with so

BOOK III. A. D. 1120

even a course as his public affairs. His only son William, with a natural daughter, and many of the flower of the young nobility, perished at sea between Normandy and England. From that fatal accident the king was never seen to smile. He sought in vain from a second marriage to provide a male successor; but when he saw all prospect of this at an end, he called a great council

1127 of his barons and prelates. His daughter Matilda, after the decease of the emperor, he had given in marriage to Geoffrey Plantagenet, count of Anjou. As she was his only remaining issue, he caused her to be acknowledged as his successor, by the great council; he inforced this acknowledgment by solemn oaths of fealty; a sanction which he weakened rather than confirmed by frequent repetition; vainly imagining that on his death any ties would bind to the respect of a succession, so little respected by himself, and by the violation of which he had procured his crown. Having taken these measures in favour of his daughter, he died in Normandy, but in a good old age, and in the thirty-sixth year of a prosperous reign.

CHAP. V.

Reign of Stephen.

1135 ALTHOUGH the authority of the crown had been exercised with very little restraint, during the three preceding reigns, the succession to it, or even the principles of the succession were but ill ascertained; so that a doubt might justly have arisen, whether the crown was not in a great measure elective. This uncertainty exposed the nation, at the death of every king, to all the calamities of a civil war; but it was a circumstance favourable to the designs of Stephen, earl of Bulloigne, who was son of Stephen, earl of Blois, by a daughter of the Conqueror. The late king had raised him to great employments, and enriched him by the grant of several lordships. His brother had been made bishop of Winchester; and by adding to it the place of his chief justiciary, the king gave him an opportunity of becoming one of the richest subjects in Europe, and of extending an unlimited influence over the clergy and the people.

Henry trusted, by the promotion of two persons so near him in blood, and so bound by benefits, that he had formed an impenetrable fence about the succession; but he only inspired into Stephen the design of seizing on the crown by bringing him so near it. The opportunity was favourable. The king died abroad. Matilda was absent with her husband; and the bishop of Winchester, by his universal credit, disposed the churchmen to elect his brother, with the concurrence of the greatest part of the nobility; who forgot their oaths, and vainly hoped that a bad title would necessarily produce a good government. Stephen, in the flower of youth, bold, active, and courageous, full of generosity and a noble affability, that seemed to reproach the state and avarice of the preceding kings, was not wanting to his fortune. He seized immediately the immense treasures of Henry, and by distributing them with a judicious profusion, removed all doubts concerning his title to them. He did not spare even the royal demesne; but secured himself a vast number of adherents by involving their guilt and interest in his own. He raised a considerable army of Flemings, in order to strengthen himself against another turn of the same instability, which had raised him to the throne; and in imitation of the measures of the late king, he concluded all by giving a charter of liberties as ample as the people at that time aspired to. This charter contained a renunciation of the forests made by his predecessor; a grant to the ecclesiastics of a jurisdiction over their own vassals; and to the people in general, an immunity from unjust talliages and exactions. It is remarkable that the oath of allegiance taken by the nobility on this occasion was conditional; it was to be observed so long as the king observed the terms of his charter; a condition, which added no real security to the rights of the subject, but which proved a fruitful source of dissention, tumult, and civil violence.

The measures which the king hitherto pursued, were dictated by sound policy; but he took another step to secure his throne, which in fact took away all its security, and at the same time brought the country to extreme misery, and to the brink of utter ruin.

At the conquest there were very few fortifications in the kingdom; William found it necessary for his security to erect several; during the struggles of the English, the Norman nobility were permitted (as in reason it could

BOOK III. A. D. 1135

not be refused) to fortify their own houses. It was, however, still understood, that no new fortress could be erected without the king's special license. These private castles began very early to embarrass the government; the royal castles were scarcely less troublesome; for as every thing was then in tenure, the governor held his place by the tenure of castle-guard; and thus, instead of a simple officer, subject to his pleasure, the king had to deal with a feudal tenant, secure against him by law, if he performed his services, and by force, if he was unwilling to perform them. Every resolution of government required a sort of civil war to put it in execution. The two last kings had taken and demolished several of these castles; but when they found the reduction of any of them difficult, their custom frequently was to erect another close by it, tower against tower, ditch against ditch; these were called malvoisins, from their purpose and situation. Thus, instead of removing, they in fact doubled the mischief. Stephen perceiving the passion of the barons for these castles, among other popular acts in the beginning of his reign, gave a general license for erecting them; then was seen to arise in every corner of the kingdom, in every petty seigniory, an inconceivable multitude of strong holds, the seats of violence, and the receptacles of murderers, felons, debasers of the coin, and all manner of desperate and abandoned villains. Eleven hundred and fifteen of these castles were built in this single reign. The barons, having thus shut out the law, made continual inroads upon each other, and spread war, rapine, burning, and desolation throughout the whole kingdom. They infested the high roads, and put a stop to all trade by plundering the merchants and travellers. Those who dwelt in the open country, they forced into their castles; and after pillaging them of all their visible substance, these tyrants held them in dungeons, and tortured them with a thousand cruel inventions to extort a discovery of their hidden wealth. The lamentable representation given by history of those barbarous times, justifies the pictures in the old romances of the castles of giants and magicians. A great part of Europe was in the same deplorable condition. It was then that some gallant spirits, struck with a generous indignation at the tyranny of these miscreants, blessed solemnly by the bishop, and followed by the praises and vows of the people, sallied forth to vindicate the chasti-

ty of women, and to redress the wrongs of travellers and peaceable men. The adventurous humour, inspired by the Crusade, heightened and extended this spirit; and thus the idea of knight errantry was formed. CHAP. V. A. D. 1138

Stephen felt personally these inconveniencies, but because the evil was too stubborn to be redressed at once, he resolved to proceed gradually, and to begin with the castles of the bishops; as they evidently held them, not only against the interests of the crown, but against the canons of the church. From the nobles he expected no opposition to this design; they beheld with envy the pride of these ecclesiastical fortresses, whose battlements seemed to insult the poverty of the lay barons. This disposition, and a want of unanimity among the clergy themselves, enabled Stephen to succeed in his attempt against the bishop of Salisbury, one of the first whom he attacked, and whose castles, from their strength and situation, were of the greatest importance. But the affairs of this prince were so circumstanced, that he could pursue no council, that was not dangerous; his breach with the clergy let in the party of his rival Matilda. This party was supported by Robert earl of Gloucester, natural son to the late king; a man powerful by his vast possessions, but more formidable through his popularity, and the courage and abilities by which he had acquired it. Several other circumstances weakened the cause of Stephen; the charter and the other favourable acts, the scaffolding of his ambition, when he saw the structure raised, he threw down and contemned. In order to maintain his troops, as well as to attach men to his cause, where no principle bound them, vast and continual largesses became necessary; all his legal revenue had been dissipated; and he was therefore obliged to have recourse to such methods of raising money, as were evidently illegal. These causes every day gave some 1139
accession of strength to the party against him; the friends of Matilda were encouraged to appear in arms; a civil war ensued, long and bloody, prosecuted as chance or a blind rage directed, by mutual acts of cruelty and treachery, by frequent surprisals and assaults of castles, and by a number of battles and skirmishes fought to no determinate end; and in which nothing of the military art appeared, but the destruction which it caused. Various on this occasion were the reverses of fortune; while Stephen, though embarrassed by the weakness of his

BOOK III. title, by the scantiness of his finances, and all the disorders which arose from both, supported his tottering throne with wonderful activity and courage; but being
A. D. 1140 at length defeated and made prisoner under the walls of Lincoln, the clergy openly declare for Matilda. The city of London, though unwillingly, follows the example of the clergy; the defection from Stephen was growing universal. But Matilda, puffed up with a greatness, which as yet had no solid foundation, and stood merely in personal favour, shook it in the minds of all men, by assuming, together with the insolence of conquest, the haughty rigour of an established dominion. Her title appeared but too good in the resemblance she bore to the pride of the former kings. This made the first ill success in her affairs fatal. Her great support, the earl
1141 of Gloucester, was in his turn made prisoner; in exchange for his liberty that of Stephen was procured, who renewed the war with his usual vigour. As he apprehended an attempt from Scotland in favour of Matilda, descended from the blood royal of that nation, to balance this weight he persuaded the king of France to declare in his favour, alarmed as he was by the progress of Henry, the son of Matilda and Geoffrey, count of Anjou. This prince, no more than sixteen years of age, after receiving knighthood from David, king of Scotland, began to display a courage and capacity, destined to the greatest things. Of a complexion which strongly inclined to pleasure. he listened to nothing but ambition; at an age, which is usually given up to passion, he submitted delicacy to politics; and even in his marriage only remembered the interests of a sovereign; for, without examining too scrupulously into her character, he married Eleanor the heiress of Guienne, though divorced from her husband for her supposed gallantries in the holy land. He made use of the accession of power, which he acquired by this match, to assert his birthright to Normandy. This he did with great success, because he was favoured by the general inclination of the people for the blood of their ancient lords. Flushed with this prosperous beginning, he aspired to greater things; he obliged the king of France to submit to a truce; and then he turned his arms to support the rights of his family in England, from whence Matilda retired, unequal to the troublesome part she had long acted. Worn out with age and the clashing of furious factions, she shut herself up in a monaste-

ry, and left to her son the succession of a civil war. Stephen was now pressed with renewed vigour. Henry had rather the advantage in the field; Stephen had the possession of the government. Their fortunes appearing nearly balanced, and the fuel of dissension being consumed by a continual and bloody war of thirteen years, an accommodation was proposed and accepted. Henry found it dangerous to refuse his consent, as the bishops and barons, even of his own party, dreaded the consequences, if a prince, in the prime of an ambitious youth, should establish an hereditary title by the force of foreign arms. This treaty, signed at Wallingford, left the possession of the crown for his life to Stephen, but secured the succession to Henry, whom that prince adopted. The castles erected in this reign were to be demolished; the exorbitant grants of the royal demesne to be resumed. To the son of Stephen all his private possessions were secured.

CHAP. VI. A. D. 1153

Thus ended this tedious and ruinous civil war. Stephen survived it near two years; and now finding himself more secure as the lawful tenant, than he had been as the usurping proprietor, of the crown, he no longer governed on the maxims of necessity. He made no new attempts in favour of his family, but spent the remainder of his reign in correcting the disorders which arose from his steps in its commencement, and in healing the wounds of so long and cruel a war. Thus he left the kingdom in peace to his successor; but his character, as it is usual where party is concerned, greatly disputed. Wherever his natural dispositions had room to exert themselves, they appeared virtuous and princely; but the lust to reign, which often attends great virtues, was fatal to his, frequently hid them, and always rendered them suspected.

CHAP. VI.

Reign of Henry II.

The death of Stephen left an undisputed succession, for the first time since the death of Edward the Confessor. Henry, descended equally from the Norman conqueror 1154

BOOK III. and the old English kings, adopted by Stephen, acknowledged by the barons, united in himself every kind of title. It was grown into a custom for the king to grant a charter of liberties on his accession to the crown. Henry also granted a charter of that kind, confirming that of his grandfather; but as his situation was very different from that of his predecessors, his charter was different; reserved, short, dry, conceived in general terms; a gift, not a bargain. And indeed there seems to have been at that juncture but little occasion to limit a power, which seemed not more than sufficient to correct all the evils of an unlimited liberty. Henry spent the beginning of his reign in repairing the ruins of the royal authority, and in restoring to the kingdom peace and order, along with its ancient limits; and he may well be considered as the restorer of the English monarchy. Stephen had sacrificed the demesne of the crown, and many of its rights, to his subjects; and the necessity of the times obliged both that prince and the empress Matilda to purchase in their turns the precarious friendship of the king of Scotland, by a cession of almost all the country north of the Humber. But Henry obliged the king of Scotland to restore his acquisitions, and to renew his homage. He took the same methods with his barons. Not sparing the grants of his mother, he resumed what had been so lavishly squandered by both of the contending parties; who, to establish their claims, had given away almost every thing that made them valuable. There never was a prince in Europe, who better understood the advantages to be derived from its peculiar constitution, in which greater acquisitions of dominion are made by judicious marriages, than by success in war. For having added to his patrimonial territories of Anjou and Normandy the duchy of Guienne, by his own marriage; the male issue of the dukes of Britanny failing, he took the opportunity of marrying his third son Geoffrey, then an infant, to the heiress of that important province, an infant also; and thus uniting by so strong a link his northern to his southern dominions, he possessed in his own name, or in those of his wife and son, all that fine and extensive country, that is washed by the Atlantic Ocean, from Picardy quite to the foot of the Pyrenees.

A. D. 1154

1158

Henry, possessed of such extensive territories, and aiming at further acquisitions, saw with indignation that the sovereign authority in all of them, especially in England,

had been greatly diminished. By his resumptions he had indeed lessened the greatness of several of the nobility; he had by force of arms reduced those who forcibly held the crown lands, and deprived them of their own estates for their rebellion. He demolished many castles, those perpetual resources of rebellion and disorder. But the great aim of his policy was to break the power of the clergy, which each of his predecessors, since Edward, had alternately strove to raise and to depress; at first, in order to gain that potent body to their interests; and then to preserve them in subjection to the authority which they had conferred. The clergy had elected Stephen; they had deposed Stephen, and elected Matilda; and in the instruments, which they used on these occasions, they affirmed in themselves a general right of electing the kings of England. Their share, both in the elevation and depression of that prince, showed that they possessed a power inconsistent with the safety and dignity of the state. The immunities which they enjoyed, seemed no less prejudicial to the civil economy; and the rather as in the confusion of Stephen's reign, many, to protect themselves from the prevailing violence of the time, or to sanctify their own disorders, had taken refuge in the clerical character. The church was never so full of scandalous persons, who being accountable only in the ecclesiastical courts, where no crime is punished with death, were guilty of every crime. A priest had about this time committed a murder, attended with very aggravating circumstances. The king, willing at once to restore order, and to depress the clergy, laid hold of this favourable opportunity to convoke the cause to his own court, when the atrociousness of the crime made all men look with an evil eye upon the claim of any privilege, which might prevent the severest justice. The nation in general seemed but little inclined to controvert so useful a regulation with so potent a prince. Amidst this general acquiescence, one man was found, bold enough to oppose him; who for eight years together embroiled all his affairs, poisoned his satisfactions, endangered his dominions, and at length in his death triumphed over all the power and policy of this wise and potent monarch. This was Thomas à Becket, a man memorable for the great glory and the bitter reproaches he has met with from posterity. This person was the son of a respectable citizen of London; he was bred to the study of the civil and canon law, the ed-

CHAP. V.

A. D. 1158

BOOK III. A. D. 1158

ucation then used to qualify a man for public affairs, in which he soon made a distinguished figure. By the royal favour, and his own abilities, he rose in a rapid succession through several considerable employments, from an office under the sheriff of London, to be high chancellor of the kingdom. In this high post he showed a spirit as elevated; but it was rather a military spirit, than that of the gownman; magnificent to excess in his living and appearance, and distinguishing himself in the tournaments and other martial sports of that age, with much ostentation of courage and expense. The king, who favoured him greatly, and expected a suitable return, on the vacancy, destined Becket, yet a layman, to the see of Canterbury, and hoped to find in him a warm promo-
1162 ter of the reformation he intended. Hardly a priest, he was made the first prelate in the kingdom. But no sooner was he invested with the clerical character, than the whole tenour of his conduct was seen to change all at once; of his pompous retinue a few plain servants only remained; a monastic temperance regulated his table; and his life, in all respects, formed to the most rigid austerity, seemed to prepare him for that superiority he was resolved to assume, and the conflicts he foresaw he must undergo in this attempt.

It will not be unpleasing to pause a moment at this remarkable period, in order to view in what consisted that greatness of the clergy, which enabled them to bear so very considerable a sway in all public affairs; what foundations supported the weight of so vast a power; whence it had its origin; what was the nature, and what the ground of the immunities they claimed; that we may the more fully enter into this important controversy, and may not judge, as some have inconsiderately done, of the affairs of those times by ideas taken from the present manners and opinions.

It is sufficiently known, that the first christians, avoiding the Pagan tribunals, tried most even of their civil causes before the bishop; who, though he had no direct coercive power, yet, wielding the sword of excommunication, had wherewithal to enforce the execution of his judgments. Thus the bishop had a considerable sway in temporal affairs, even before he was owned by the temporal power. But the emperors no sooner became christian, than, the idea of profaneness being removed from the secular tribunals, the causes of the christian

laity naturally passed to that resort, where those of the generality had been before. But the reverence for the bishop still remained, and the remembrance of his former jurisdiction. It was not thought decent, that he, who had been a judge in his own court, should become a suitor in the court of another. The body of the clergy likewise, who were supposed to have no secular concerns, for which they could litigate, and removed by their character from all suspicion of violence, were left to be tried by their own ecclesiastical superiors. This was, with a little variation, sometimes in extending, sometimes in restraining the bishops' jurisdiction, the condition of things, whilst the Roman empire subsisted. But though their immunities were great, and their possessions ample, yet living under an absolute form of government, they were powerful only by influence. No jurisdictions were annexed to their lands; they had no place in the senate; they were no order in the state.

CHAP. VI. A. D. 1162

From the settlement of the northern nations, the clergy must be considered in another light. The barbarians gave them large landed possessions; and by giving them land, they gave them jurisdiction, which, according to their notions, was inseparable from it. They made them an order in the state; and as all the orders had their privileges, the clergy had theirs, and were no less steady to preserve, and ambitious to extend them. Our ancestors, having united the church dignities to the secular dignity of baronies, had so blended the ecclesiastical with the temporal power in the same persons, that it became almost impossible to separate them. The ecclesiastical was however prevalent in this composition, drew to it the other, supported it, and was supported by it. But it was not the devotion only, but the necessity of the times, that raised the clergy to the excess of this greatness. The little learning which then subsisted remained wholly in their hands. Few among the laity could even read; consequently the clergy alone were proper for public affairs. They were the statesmen, they were the lawyers; from them were often taken the bailiffs of the seigneurial courts, sometimes the sheriffs of counties, and almost constantly the justiciaries of the kingdom. The Norman kings, always jealous of their order, were always forced to employ them. In abbeys the law was studied; abbeys were the palladiums of the public liberty by the custody of the royal charters and

Seld. tythes, p. 482.

BOOK III. A. D. 1162

most of the records. Thus, necessary to the great by their knowledge; venerable to the poor by their hospitality; dreadful to all by the power of excommunication; the character of the clergy was exalted above every thing in the state; and it could no more be otherwise in these days, than it is possible it should be so in ours.

William the Conqueror made it one principal point of his politics to reduce the clergy; but all the steps he took in it were not equally well calculated to answer this intention. When he subjected the church lands to military service, the clergy complained bitterly, as it lessened their revenue; but I imagine it did not lessen their power in proportion; for by this regulation they came, like other great lords, to have their military vassals, who owed them homage and fealty; and this rather increased their consideration among so martial a people. The kings who succeeded him, though they also aimed at reducing the ecclesiastical power, never pursued their scheme on a great or legislative principle. They seemed rather desirous of enriching themselves by the abuses in the church, than earnest to correct them. One day they plundered, and the next they founded monasteries, as their rapaciousness or their scruples chanced to predominate; so that every attempt of that kind, having rather the air of tyranny than reformation, could never be heartily approved or seconded by the body of the people.

The bishops must always be considered in the double capacity of clerks and barons. Their courts, therefore, had a double jurisdiction; over the clergy and laity of their diocese, for the cognizance of crimes against ecclesiastical law; and over the vassals of their barony, as lords paramount. But these two departments, so different in their nature, they frequently confounded by making use of the spiritual weapon of excommunication to enforce the judgments of both; and this sentence, cutting off the party from the common society of mankind, lay equally heavy on all ranks; for, as it deprived the lower sort of the fellowship of their equals, and the protection of their lord; so it deprived the lord of the services of his vassals, whether he or they lay under the sentence. This was one of the grievances which the king proposed to redress.

As some sanction of religion is mixed with almost

every concern of civil life; and as the ecclesiastical court took cognizance of all religious matters, it drew to itself not only all questions relative to tythes and advowsons; but whatever related to marriages, wills, the estate of intestates, the breaches of oaths and contracts; in a word, every thing which did not touch life, or feudal property. The ignorance of the bailiffs in lay courts, who were only possessed of some feudal maxims, and the traditions of an uncertain custom, made this recourse to the spiritual courts the more necessary, where they could judge with a little more exactness by the lights of the canon and civil laws.

This jurisdiction extended itself by connivance, by necessity, by custom, by abuse, over lay persons and affairs. But the immunity of the clergy from lay cognizances was claimed not only as a privilege essential to the dignity of their order, supported by the canons, and countenanced by the Roman law, but as a right confirmed by all the ancient laws of England.

Christianity coming into England, out of the bosom of the Roman empire, brought along with it all those ideas of immunity. The first trace we can find of this exemption from lay jurisdiction in England is in the laws of Etheldred,* it is more fully established in those of Canute;† but in the code of Henry the First it is twice distinctly affirmed.‡ This immunity from the secular jurisdiction, whilst it seemed to encourage acts of violence in the clergy towards others, encouraged also the violence of others against them. The murder of a clerk could not be punished at this time by death; it was against a spiritual person; an offence wholly spiritual, of which the secular courts took no sort of cognizance. In the Saxon times two circumstances made such an exemption less a cause of jealousy; the sheriff sat with the bishop, and the spiritual jurisdiction was, if not under the control, at least under the inspection of the lay officer; and then as neither laity nor clergy were capitally punished for any offence, this privilege did not create so invidious and glaring a distinction between them.

* LL. Etheldred Si presbyter homicida fieret, &c.

† LL. Canuti, 38. de ministro altaris homicida. Idem 40. de ordinato capitis 200.

‡ LL H. I. 57. De querela vicinorum, and 56. De ordinato qui vitam forisfaciat, in Fœd. Guthrem. apud Spel. Concil. 376. 1st vol. LL Edw. III. De correctione ordinatorum.

BOOK III. Such was the power of the clergy, and such the immunities which the king proposed to diminish.

A. D. 1162 Becket, who had punished the ecclesiastic for his crime by ecclesiastical law, refused to deliver him over to the secular judges for further punishment; on the principle of law, that no man ought to be twice questioned for the same offence. The king, provoked at this opposition, summoned a council of the barons and bishops at Clarendon; and here, amongst others of less moment, the following were unanimously declared to be the ancient prerogatives of the crown. And it is something remarkable, and certainly makes much for the honour of their moderation, that the bishops and abbots, who must have composed so large and weighty a part of the great council, seem not only to have made no opposition to regulations which so remarkably contracted their jurisdiction, but even seem to have forwarded them.

1164

1st. A clerk accused of any crime shall appear in the king's court, that it may be judged whether he belongs to ecclesiastical or secular cognizance. If to the former, a deputy shall go into the bishop's court to observe the trial; if the clerk be convicted, he shall be delivered over to the king's justiciary to be punished.

2d. All causes concerning presentation; all causes concerning Frankalmoigne; all actions concerning breach of faith, shall be tried in the king's court.

3d. The king's tenant *in capite* shall not be excommunicated without the king's license.

4th. No clerk shall go out of the kingdom without giving security that he shall do nothing to the prejudice of the king or nation.. And all appeals shall be tried at home.

These are the most material of the constitutions or assizes of Clarendon, famous for having been the first legal check given to the power of the clergy in England. To give these constitutions the greater weight, it was thought proper that they should be confirmed by a bull from the pope. By this step, the king seemed to doubt the entireness of his own authority in his dominions; and by calling in foreign aid, when it served his purpose, he gave it a force and a sort of legal sanction when it came to be employed against himself. But as no negotiation had prepared the pope in favour of laws, designed in reality to abridge his own power, it was no wonder that he rejected them with indignation. Becket, who had not been

prevailed on to accept them but with infinite reluctance, was no sooner apprized of the pope's disapprobation, than he openly declared his own; he did penance in the humblest manner for his former acquiescence, and resolved to make amends for it, by opposing the new constitutions with the utmost zeal. In this disposition, the king saw that the archbishop might be more easily ruined than humbled; and his ruin was resolved. Immediately a number of suits, on various pretences, were commenced against him, in every one of which he was sure to be foiled; but these making no deadly blow at his fortunes, he was called to account for thirty thousand pounds, which he was accused of having embezzled during his chancellorship. It was in vain that he pleaded a full acquittance from the king's son, and Richard de Lucy, the guardian and justiciary of the kingdom, on his resignation of the seals; he saw it was already determined against him. Far from yielding under these repeated blows, he raised still higher the ecclesiastical pretensions, now become necessary to his own protection. He refused to answer to the charge, and appealed to the pope, to whom alone he seemed to acknowledge any real subjection. A great ferment ensued on this appeal. The courtiers advised that he should be thrown into prison, and that his temporalities should be seized. The bishops, willing to reduce Becket without reducing their own order, proposed to accuse him before the pope, and to pursue him to degradation. Some of his friends pressed him to give up his cause, others urged him to resign his dignity. The king's servants threw out menaces against his life. Amidst this general confusion of passions and councils, whilst every one according to his interests expected the event with much anxiety, Becket, in the disguise of a monk, escaped out of the nation, and threw himself into the arms of the king of France.

Henry was greatly alarmed at this secession, which put the archbishop out of his power, but left him in full possession of all his ecclesiastical weapons. An embassy was immediately despatched to Rome, in order to accuse Becket; but as Becket pleaded the pope's own cause before the pope himself, he obtained an easy victory over the king's ambassadors. Henry, on the other hand, took every measure to maintain his authority: he did every thing worthy of an able politician, and of a king tenacious

BOOK III. A. D. 1164

of his just authority. He likewise took measures not only to humble Becket, but also to lower that chair, whose exaltation had an ill influence on the throne. For he encouraged the bishop of London to revive a claim to the primacy; and thus, by making the rights of the see at least dubious, he hoped to render future prelates more cautious in the exercise of them. He inhibited, under the penalty of high treason, all ecclesiastics from going out of his dominions without license, or any emissary of the pope's or archbishop's from entering them with letters of excommunication or interdict. And that he might not supply arms against himself, the Peterpence were collected with the former care, but detained in the royal treasury, that matter might be left to Rome both for hope and fear. In the personal treatment of Becket, all the proceedings were full of anger; and by an unnecessary and unjust severity, greatly discredited both the cause and character of the king; for he stripped of their goods and banished all the archbishop's kindred, all who were in any sort connected with him, without the least regard to sex, age or condition. In the mean time, Becket, stung with these affronts, impatient of his banishment, and burning with all the fury and the same zeal which had occasioned it, continually threatened the king with the last exertions of ecclesiastical power; and all things were thereby, and by the absence and enmity of the head of the English church, kept in great confusion.

During this unhappy contention several treaties were set on foot; but the disposition of all the parties, who interested themselves in this quarrel, very much protracted a determination in favour of either side. With regard to Rome, the then pope was Alexander the Third, one of the wisest prelates who had ever governed that see, and the most zealous for extending its authority. However, though incessantly solicited by Becket to excommunicate the king, and to lay the kingdom under an interdict, he was unwilling to keep pace with the violence of that enraged bishop. Becket's view was single: but the pope had many things to consider; an anti-pope then subsisted, who was strongly supported by the emperor, and Henry had actually entered into a negotiation with this emperor and this pretended pope. On the other hand, the king knew that the lower sort of people in England were generally affected to the archbishop, and much under the influence of the clergy. He was therefore fear-

ful to drive the pope to extremities by wholly renouncing his authority. These dispositions in the two principal powers made way for several conferences leading to peace. But for a long time all their endeavours seemed rather to inflame than to allay the quarrel. Whilst the king, steady in asserting his rights, remembered with bitterness the archbishop's opposition; and whilst the archbishop maintained the claims of the church, with an haughtiness natural to him, and which was only augmented by his sufferings, the king of France appeared sometimes to forward, sometimes to perplex the negotiation; and this duplicity seemed to be dictated by the situation of his affairs. He was desirous of nourishing a quarrel, which put so redoubted a vassal on the defensive, but he was also justly fearful of driving so powerful a prince to forget that he was a vassal. All parties, however, wearied at length with a contest by which all were distracted, and which in its issue promised nothing favourable to any of them, yielded at length to an accommodation, founded rather on an oblivion and silence of past disputes, than on the settlement of terms for preserving future tranquillity.

Becket returned in a sort of triumph to his see. Many of the dignified clergy, and not a few of the barons, lay under excommunication for the share they had in his persecution; but neither broken by adversity, nor softened by good fortune, he relented nothing of his severity, but referred them all for their absolution to the Pope. Their resentments were revived with additional bitterness; new affronts were offered to the archbishop, which brought on new excommunications and interdicts. The contention thickened on all sides, and things seemed running precipitately to the former dangerous extremities, when the account of these contests were brought, with much aggravation against Becket, to the ears of the king, then in Normandy; who, foreseeing a new series of troubles, broke out in a violent passion of grief and anger, "I have no friends, or I had not so long been insulted by this haughty priest!" Four knights, who attended near his person, thinking that the complaints of a king are orders for revenge, and hoping a reward equal to the importance and even guilt of the service, silently departed; and passing with great diligence into England, in a short time they arrived at Canterbury. They entered the Cathedral; they fell on the archbishop just on

BOOK III. A. D. 1171

the point of celebrating divine service; and with repeated blows of their clubs, they beat him to the ground, they broke his skull in pieces, and covered the altar with his blood and brains.

The horror of this barbarous action, increased by the sacredness of the person who suffered, and of the place where it was committed, diffused itself on all sides with incredible rapidity; the clergy, in whose cause he fell, equalled him to the most holy martyrs; compassion for his fate made all men forget his faults; and the report of frequent miracles at his tomb sanctified his cause and character, and threw a general odium on the king. What became of the murderers is uncertain; they were neither protected by the king, nor punished by the laws, for the reason we have not long since mentioned. The king, with infinite difficulty, extricated himself from the consequences of this murder, which threatened, under the papal banners, to arm all Europe against him; nor was he absolved, but by renouncing the most material parts of the constitutions of Clarendon; by purging himself upon oath of the murder of Becket; by doing a very humiliating penance at his tomb, to expiate the rash words which had given occasion to his death; and by engaging to furnish a large sum of money for the relief of the holy land, and taking the cross himself as soon as his affairs should admit it. The king probably thought his freedom from the haughtiness of Becket cheaply purchased by these condescensions; and without question, though Becket might have been justifiable, perhaps even laudable for his steady maintenance of the privileges, which his church and his order had acquired by the care of his predecessors, and of which he by his place was the depository; yet the principles upon which he supported these privileges, subversive of all good government; his extravagant ideas of church power; the schemes he meditated even to his death to extend it yet further; his violent and unreserved attachment to the papacy, and that inflexible spirit, which all his virtues rendered but the more dangerous, made his death as advantageous at that time, as the means, by which it was effected, were sacrilegious and detestable.

Between the death of Becket and the king's absolution, he resolved on the execution of a design, by which he reduced under his dominion a country not more sepa-

rated from the rest of Europe by its situation, than by the laws, customs, and way of life of the inhabitants: for the people of Ireland, with no difference but that of religion, still retained the native manners of the original Celtæ. The king had meditated this design from the very beginning of his reign; and had obtained a bull from the then pope, Adrian the Fourth, an Englishman, to authorize the attempt. He well knew, from the internal weakness and advantageous situation of this noble island, the easiness and importance of such a conquest. But at this particular time, he was strongly urged to his engaging personally in the enterprise by two other powerful motives. For, first, the murder of Becket had bred very ill humours in his subjects; the chiefs of whom, always impatient of a long peace, were glad of any pretence for rebellion; it was therefore expedient and serviceable to the crown, to find an employment abroad for this spirit, which could not exert itself without being destructive at home. And, next, as he had obtained the grant of Ireland from the pope, upon condition of subjecting it to Peterpence, he knew that the speedy performance of this condition would greatly facilitate his recovering the good graces of the court of Rome. Before we give a short narrative of the reduction of Ireland, I propose to lay open to the reader the state of that kingdom, that we may see what grounds Henry had to hope for success in this expedition.

Ireland is about half as large as England. In the temperature of the climate there is little difference, other than that more rain falls; as the country is more mountainous, and exposed full to the westerly wind, which blowing from the Atlantic Ocean prevails during the greater part of the year. This moisture, as it has enriched the country with large and frequent rivers, and spread out a number of fair and magnificent lakes, beyond the proportion of other places, has on the other hand encumbered the island with an uncommon multitude of bogs and morasses; so that in general it is less praised for corn than pasturage, in which no soil is more rich and luxuriant. Whilst it possesses these internal means of wealth, it opens on all sides a great number of ports spacious and secure, and by their advantageous situation inviting to universal commerce. But on these ports, better known than those of Britain in the time of the Romans, at this time there were few towns, scarce any

BOOK III. fortifications, and no trade that deserves to be mentioned.

A. D. The people of Ireland lay claim to a very extravagant antiquity, through a vanity common to all nations. The accounts which are given by their ancient chronicles of their first settlements, are generally tales confuted by their own absurdity. The settlement of the greatest consequence, the best authenticated, and from which the Irish deduce the pedigree of the best families, is derived from Spain; it was called Clan Milea, or the descendants of Milesius and Kin Scuit, or the race of Scyths, afterwards known by the name of Scots. The Irish historians suppose this race descended from a person called Gathel, a Scythian by birth, an Ægyptian by education, the cotemporary and friend of the prophet Moses. But these histories, seeming clear sighted in the obscure affairs of so blind an antiquity, instead of passing for treasuries of ancient facts, are regarded by the judicious as modern fictions. In cases of this sort rational conjectures are more to be relied on than improbable relations. It is most probable that Ireland was first peopled from Britain. The coasts of these countries are in some places in sight of each other. The language, the manners, and religion of the most ancient inhabitants of both are nearly the same. The Milesian colony, whenever it arrived in Ireland, could have made no great change in the manners or language, as the ancient Spaniards were a branch of the Celtæ, as well as the old inhabitants of Ireland. The Irish language is not different from that of all other nations, as Temple and Rapin, from ignorance of it, have asserted; on the contrary, many of its words bear a remarkable resemblance not only to those of the Welsh and Armoric, but also to the Greek and Latin. Neither is the figure of the letters very different from the vulgar character, though their order is not the same with that of other nations, nor the names, which are taken from the Irish proper names of several species of trees; a circumstance which, notwithstanding their similitude to the Roman letters, argues a different original and great antiquity. The Druid discipline anciently flourished in that island; in the fourth century it fell down before the preaching of St. Patrick; then the christian religion was embraced and cultivated with an uncommon zeal, which displayed itself in the number and consequence of the persons

who in all parts embraced the contemplative life. This mode of life, and the situation of Ireland, removed from the horror of those devastations which shook the rest of Europe, made it a refuge for learning, almost extinguished every where else. Science flourished in Ireland during the seventh and eighth centuries. The same cause which destroyed it in other countries, also destroyed it there. The Danes, then Pagans, made themselves masters of the island, after a long and wasteful war, in which they destroyed the sciences along with the monasteries, in which they were cultivated. By as destructive a war they were at length expelled; but neither their ancient science nor repose returned to the Irish; who, falling into domestic distractions as soon as they were freed from their foreign enemies, sunk quickly into a state of ignorance, poverty, and barbarism; which must have been very great, since it exceeded that of the rest of Europe. The disorders in the church were equal to those in the civil economy, and furnished to the pope a plausible pretext for giving Henry a commission to conquer the kingdom in order to reform it.

The Irish were divided into a number of tribes or clans, each clan forming within itself a separate government. It was ordered by a chief, who was not raised to that dignity either by election or by the ordinary course of descent, but as the eldest and worthiest of the blood of the deceased lord. This order of succession, called tanistry, was said to have been invented in the Danish troubles, lest the tribe, during a minority, should have been endangered for want of a sufficient leader. It was probably much more ancient; but it was, however, attended with very great and pernicious inconveniencies, as it was obviously an affair of difficulty to determine who should be called the worthiest of the blood; and a door being always left open for ambition, this order introduced a greater mischief than it was intended to remedy. Almost every tribe, besides its contention with the neighbouring tribes, nourished faction and discontent within itself. The chiefs we speak of, were in general called tierna or lords, and those of more consideration riagh or kings; over these were placed five kings more eminent than the rest, answerable to the five provinces into which the island was anciently divided. These again were subordinate to one head, who was called

BOOK III. A. D.

monarch of all Ireland, raised to that power by election, or, more properly speaking, by violence.

Whilst the dignities of the state were disposed of by a sort of election, the office of judges, who were called Brehons, the trades of mechanics, and even those arts which we are apt to consider as depending principally on natural genius, such as poetry and music, were confined in succession to certain races; the Irish imagining that greater advantages were to be derived from an early institution, and the affection of parents desirous of perpetuating the secrets of their art in their families, than from the casual efforts of particular fancy and application. This is much in the strain of the eastern policy; but these and many other of the Irish institutions, well enough calculated to preserve good arts and useful discipline, when these arts came to degenerate, were equally well calculated to prevent all improvement, and to perpetuate corruption, by infusing an invincible tenaciousness of ancient customs.

The people of Ireland were much more addicted to pasturage than agriculture, not more from the quality of their soil, than from a remnant of the Scythian manners. They had but few towns, and those not fortified, each clan living dispersed over its own territory. The few walled towns they had lay on the sea coast; they were built by the Danes, and held after they had lost their conquests in the inland parts; here was carried on the little foreign trade which the island then possessed.

The Irish militia was of two kinds; one called *kerns*, which were foot slightly armed with a long knife or dagger, and almost naked; the other *galloglasses*, who were horse, poorly mounted, and generally armed only with a battle ax. Neither horse nor foot made much use of the spear, the sword, or the bow. With indifferent arms, they had still worse discipline. In these circumstances, their natural bravery, which, though considerable, was not superior to that of their invaders, stood them in little stead.

Such was the situation of things in Ireland, when Dermot, king of Leinster, having violently carried away the wife of one of the neighbouring petty sovereigns, Roderic, king of Connaught, and monarch of Ireland, joined with the injured husband to punish so flagrant an outrage; and with their united forces spoiled Dermot of his territories, and obliged him to abandon the kingdom.

The fugitive prince, not unapprized of Henry's designs upon his country, threw himself at his feet, implored his protection, and promised to hold of him, as his feudatory, the sovereignty he should recover by his assistance. Henry was at this time at Guienne; nothing could be more agreeable to him than such an incident; but as his French dominions actually lay under an interdict, on account of his quarrel with Becket, and all his affairs, both at home and abroad were in a troubled and dubious situation, it was not prudent to remove his person, nor venture any considerable body of his forces, on a distant enterprise. Yet not willing to lose so favourable an opportunity, he warmly recommended the cause of Dermot to his regency in England, permitting and encouraging all persons to arm in his favour: a permission, in this age of enterprise, greedily accepted by many; but the person who brought the most assistance to it, and indeed gave a form and spirit to the whole design, was Richard, earl of Striaul, commonly known by the name of Strongbow. Dermot, to confirm in his interest this potent and warlike peer, promised him his daughter in marriage, with the reversion of his crown. The beginnings of so great an enterprise were formed with a very slender force. Not four hundred men landed near Wexford; they took the town by storm. When reinforced they did not exceed twelve hundred; but, being joined with three thousand men by Dermot, with an incredible rapidity of success they reduced Waterford, Dublin, and Limerick, the only considerable cities in Ireland. By the novelty of their arms they had obtained some striking advantages in their first engagements; and by these advantages they attained a superiority of opinion over the Irish, which every success increased. Before the effect of this first impression had time to wear off, Henry, having settled his affairs abroad, entered the harbour of Cork with a fleet of four hundred sail, at once to secure the conquest, and the allegiance of the conquerors. The fame of so great a force arriving under a prince dreaded by all Europe, very soon disposed all the petty princes, with their King Roderic, to submit and do homage to Henry. They had not been able to resist the arms of his vassals, and they hoped better treatment from submitting to the ambition of a great king, who left them every thing but the honour of their

A. D. 1167

1169

1172

BOOK III. A. D. 1172

independency, than from the avarice of adventurers, from which nothing was secure. The bishops and the body of the clergy greatly contributed to this submission, from respect to the pope, and the horror of their late defeats, which they began to regard as judgments. A national council was held at Cashel for bringing the church of Ireland to a perfect conformity, in rites and discipline, to that of England. It is not to be thought, that in this council the temporal interests of England were entirely forgotten. Many of the English were established in their particular conquests, under the tenure of knights' service, now first introduced into Ireland; a tenure which, if it has not proved the best calculated to secure the obedience of the vassal to the sovereign, has never failed in any instance of preserving a vanquished people in obedience to the conquerors. The English lords built strong castles on their demesnes; they put themselves at the head of the tribes whose chiefs they had slain; they assumed the Irish garb and manners; and thus partly by force, partly by policy, the first English families took a firm root in Ireland. It was indeed long before they were able entirely to subdue the island to the laws of England; but the continual efforts of the Irish, for more than four hundred years, proved insufficient to dislodge them.

Whilst Henry was extending his conquests to the western limits of the known world, the whole fabric of his power was privately sapped and undermined, and ready to overwhelm him with the ruins, in the very moment when he seemed to be arrived at the highest and most permanent point of grandeur and glory. His excessive power, his continual accessions to it, and an ambition, which by words and actions declared that the whole world was not sufficient for a great man, struck a just terror into all the potentates near him; he was indeed arrived at that pitch of greatness, that the means of his ruin could only be found in his own family. A numerous offspring, which is generally considered as the best defence of the throne, and the support as well as ornament of declining royalty, proved on this occasion the principal part of the danger. Henry had in his lawful bed, besides daughters, four sons, Henry, Richard, Geoffrey, and John, all growing up with great hopes from their early courage and love of glory. No father was ever more delighted with these hopes, nor more ten-

der and indulgent to his children. A custom had long prevailed in France for the reigning king to crown his eldest son in his life-time. By this policy, in turbulent times, and whilst the principles of succession were unsettled, he secured the crown to his posterity. Henry gladly imitated a policy enforced no less by paternal affection, than its utility to public peace. He had, during his troubles with Becket, crowned his son Henry, then no more than sixteen years old. But the young king, even on the day of his coronation, discovered an haughtiness which threatened not to content itself with the share of authority to which the inexperience of his youth and the nature of a provisional crown confined him. The name of a king continually reminded him, that he only possessed the name. The king of France, whose daughter he had espoused, fomented a discontent, which grew with his years. Geoffrey, who had married the heiress of Bretagne, on the death of her father, claimed to no purpose the entire sovereignty of his wife's inheritance; which Henry, under a pretence of guardianship to a son of full age, still retained in his hands. Richard had not the same plausible pretences, but he had yet greater ambition. He contended for the duchy of Guienne before his mother's death, which alone could give him the colour of a title to it. The queen, his mother, hurried on by her own unquiet spirit, or as some think, stimulated by jealousy, encouraged their rebellion against her husband. The king of France, who moved all the other engines, engaged the king of Scotland, the earl of Flanders, then a powerful prince, the earl of Blois, and the earl of Bologne, in the conspiracy. The barons in Bretagne, in Guienne, and even in England, were ready to take up arms in the same cause; whether it was, that they perceived the uniform plan the king had pursued in order to their reduction, or solely instigated by the natural fierceness and levity of their minds, fond of every dangerous novelty. The historians of that time seldom afford us a tolerable insight into the causes of the transactions they relate; but whatever were the causes of so extraordinary a conspiracy, it was not discovered until the moment it was ready for execution. The first token of it appeared in the young king's demand to have either England or Normandy given up to him. The refusal of this demand served as a signal to all parties to put themselves in motion. The

BOOK III. A. D.

younger Henry fled into France. Lewis entered Normandy with a vast army. The barons of Bretagne under Geoffrey, and those of Guienne under Richard, rose in arms; the king of Scotland pierced into England; and the earl of Leicester, at the head of fourteen thousand Flemings, landed in Suffolk.

It was on this trying occasion that Henry displayed a greatness independent of all fortune. For, beset by all the neighbouring powers, opposed by his own children, betrayed by his wife, abandoned by one part of his subjects, uncertain of the rest, every part of his state rotten and suspicious, his magnanimity grew beneath the danger; and when all the ordinary resources failed, he
1173 found superior resources in his own courage, wisdom, and activity. There were at that time dispersed over Europe bodies of mercenary troops, called brabançons, composed of fugitives from different nations; men who were detached from any country, and who, by making war a perpetual trade, and passing from service to service, had acquired an experience and military knowledge uncommon in those days. Henry took twenty thousand of these mercenaries into his service, and as he paid them punctually, and kept them always in action, they served him with fidelity. The papal authority, so often subservient, so often prejudicial to his designs, he called to his assistance in a cause which did not misbecome it; the cause of a father attacked by his children. This took off the ill impression left by Becket's death, and kept the bishops firm in their allegiance. Having taken his measures with judgment, he pursued the war in Normandy with vigour. In this war his mercenaries had a great and visible advantage over the feudal armies of France; the latter not so useful, while they remained in the field, entered it late in the summer, and commonly left it in forty days. The king of France was forced to raise the siege of Verneuil, to evacuate Normandy, and agree to a truce. Then at the head of his victorious Brabançons Henry marched into Brittany with an incredible expedition; the rebellious army, astonished as much by the celerity of his march as the fury of his attack, was totally routed. The principal towns and castles were reduced soon after. The custody of the conquered country being lodged in faithful hands, he flew to the relief of England. There his natural son Geoffroy, bishop elect of Ely, faithful during the rebel-

lion of all his legitimate offspring, steadily maintained his cause, though with forces much inferior to his zeal. The king, before he entered into action, thought it expedient to perform his expiation at the tomb of Becket; hardly had he finished this ceremony when the news arrived that the Scotch army was totally defeated, and their king made prisoner. This victory was universally attributed to the prayers of Becket; and whilst it established the credit of the new saint, it established Henry in the minds of his people; they no longer looked upon their king as an object of the divine vengeance, but as a penitent reconciled to heaven, and under the special protection of the martyr he had made. The Flemish army, after several severe checks, capitulated to evacuate the kingdom. The rebellious barons submitted soon after. All was quiet in England; but the king of France renewed hostilities in Normandy, and laid siege to Rouen. Henry recruited his army with a body of auxiliary Welch, arrived at Rouen with his usual expedition, raised the siege, and drove the king of France quite out of Normandy. It was then that he agreed to an accomodation; and in the terms of peace, which he dictated in the midst of victory, to his sons, his subjects, and his enemies, there was seen on one hand the tenderness of a father, and on the other the moderation of a wise man, not insensible of the mutability of fortune.

CHAP. VI.

A. D. 1173

1174

The war, which threatened his ruin, being so happily ended, the greatness of the danger served only to enhance his glory; whilst he saw the king of France humbled, the Flemings defeated, the king of Scotland a prisoner, and his sons and subjects reduced to the bounds of their duty. He employed this interval of peace to secure its continuance, and to prevent a return of the like evils; for which reason he made many reforms in the laws and polity of his dominions. He instituted itinerant justices, to weaken the power of the great barons, and even of the sheriffs, who were hardly more obedient: an institution which, with great public advantages, has remained to our times. In the spirit of the same policy he armed the whole body of the people; the English commonalty had been in a manner disarmed ever since the conquest. In this regulation we may probably trace the origin of the militia; which, being under the orders of the crown rather in a political than a feudal respect, were judged more to be relied on than the soldiers of te-

1176

BOOK III. mare, to whose pride and power they might prove a sort of counterpoise. Amidst these changes the affairs of the clergy remained untouched. The king had experienced A. D. 1176 how dangerous it was to attempt removing foundations so deeply laid both in strength and opinion. He therefore wisely aimed at acquiring the favour of that body, and turning to his own advantage a power he should in vain attempt to overthrow, but which he might set up against another power, which it was equally his interest to reduce.

Though these measures were taken with the greatest judgment, and seemed to promise a peaceful evening to his reign, the seeds of the rebellion remained still at home, and the dispositions that nourished them were rather increased abroad. The parental authority, respectable at all times, ought to have the greatest force in times when the manners are rude and the laws imperfect. At that time Europe had not emerged out of barbarism; yet this great natural bond of society was extremely weak The number of foreign obligations and duties almost dissolved the family obligations. From the moment a young man was knighted, so far as related to his father, he became absolute master of his own conduct; but he contracted at the same time a sort of filial relation with the person who had knighted him. These various principles of duty distracted one another. The custom which then prevailed, of bestowing lands and jurisdictions under the name of appanages to the sons of kings and the greater nobility, gave them a power which was frequently employed against the giver; and the military and licentious manners of the age almost destroyed every trace of every kind of regular authority. In the east, where the rivalship of brothers is so dangerous, such is the force of paternal power amongst a rude people, we scarce ever hear of a son in arms against his father. In Europe, for several ages it was very common. It was Henry's great misfortune to suffer in a particular manner from this dis-
1180 order. Philip succeeded Lewis king of France; he followed closely the plan of his predecessor, to reduce the great vassals, and the king of England, who was the greatest of them; but he followed it with far more skill and vigour, though he made use of the same instruments in the work. He revived the spirit of rebellion in the princes, Henry's sons. These young princes were never in harmony with each other, but in a confederacy against

their father; and the father had no recourse, but in the melancholy safety derived from the disunion of his children. This he thought it expedient to increase; but such policy when discovered has always a dangerous effect. The sons having just quarrelled enough to give room for an explanation of each others designs, and to display those of their father, enter into a new conspiracy. In the midst of these motions, the young king dies; and shewed at his death such signs of a sincere repentance, as served to revive the old king's tenderness, and to take away all comfort for his loss. The death of his third son, Geoffrey, followed close upon the heels of this funeral. He died at Paris, whither he had gone to concert measures against his father. Richard and John remained; Richard, fiery, restless, ambitious, openly took up arms, and pursued the war with implacable rancour, and such success, as drove the king in the decline of his life to a dishonourable treaty; nor was he then content, but excited new troubles. John was his youngest and favourite child; in him he repeated all his hopes, and consoled himself for the undutifulness of his other sons; but after concluding the treaty with the king of France and Richard, he found too soon, that John had been as deep as any in the conspiracy. This was his last wound; afflicted by his children in their deaths, and harassed in their lives; mortified as a father and a king; worn down with cares and sorrows, more than with years, he died, cursing his fortune, his children, and the hour of his birth. When he perceived that death approached him, by his own desire, he was carried into a church and laid at the altar's foot. Hardly had he expired, when he was stripped, then forsaken by his attendants, and left a long time a naked and unheeded body, in an empty church; affording a just consolation for the obscurity of a mean fortune, and an instructive lesson how little an outward greatness and enjoyments foreign to the mind contribute towards a solid felicity, in the example of one who was the greatest of kings and the unhappiest of mankind.

CHAP. VI.

A. D. 1180

1183

1185

1189

BOOK III.

A. D.

CHAP. VII.

Reign of Richard I.

1189 Richard I. WHILST Henry lived, the king of France had always an effectual means of breaking his power by the divisions in his family. But now Richard succeeded to all the power of his father, with an equal ambition to extend it, with a temper infinitely more fiery and impetuous, and free from every impediment of internal dissension. These circumstances filled the mind of Philip with great and just uneasiness. There was no security but in finding exercise for the enterprising genius of the young king at a distance from home. The new crusade afforded an advantageous opportunity. A little before his father's death, Richard had taken the cross in conjunction with the king of France. So precipitate were the fears of that monarch, that Richard was hardly crowned when ambassadors were despatched to England to remind him of his obligation, and to pique his pride by acquainting him, that their master was even then in readiness to fulful his part of their common vow. An enterprise of this sort was extremely agreeable to the genius of Richard, where religion sanctified the thirst of military glory; and where the glory itself seemed but the more desirable by being unconnected with interest. He immediately accepted the proposal, and resolved to insure the success as well as the lustre of his expedition by the magnificence of his preparations. Not content with the immense treasures amassed by his father, he drew in vast sums by the sale of almost all the demesnes of the crown, and of every office under it, not excepting those of the highest trust. The clergy, whose wealth and policy enabled them to take advantage of the necessity and weakness of the croises, were generally the purchasers of both. To secure his dominions in his absence, he made an alliance with the princes of Wales, and with the king of Scotland; to the latter, he released for a sum of money the homage which had been extorted by his father. His brother John gave him most uneasiness; but finding it unworthy or impracticable to use the severer methods of jealous policy, he resolved to secure his fidelity by loading him with benefits. He bestowed on him six earldoms; and gave him in marriage the lady Avisa, sole heiress of the

great house of Gloucester; but as he gave him no share in the regency, he increased his power, and left him discontented, in a kingdom committed to the care of new men, who had merited their places by their money. CHAP. VII. A. D. 1189

It will be proper to take a view of the condition of the holy land, at the time when this third crusade was set on foot, to repair the faults committed in the two former. The conquests of the croises, extending over Palestine and a part of Syria, had been erected into a sovereignty under the name of the kingdom of Jerusalem. This kingdom, ill ordered within, surrounded on all sides by powerful enemies, subsisted by a strength not its own for near ninety years. But dissensions arising about the succession to the crown between Guy of Lusignan, and Raymond, earl of Tripoli; Guy, either because he thought the assistance of the European princes too distant, or that he feared their decision, called in the aid of Salladine, sultan of Egypt. This able prince immediately entered Palestine. As the whole strength of the christians in Palestine depended upon foreign succour, he first made himself master of the maritime towns, and then Jerusalem fell an easy prey to his arms; whilst the competitors contended with the utmost violence for a kingdom which no longer existed for either of them. All Europe was alarmed at this revolution. The banished patriarch of Jerusalem filled every place with the distresses of the eastern christians. The pope ordered a solemn fast to be for ever kept for this loss; and then exerting all his influence, excited a new crusade, in which vast numbers engaged with an ardour unabated by their former misfortunes; but wanting a proper subordination rather than a sufficient force, they made but a slow progress, when 1190
Richard and Philip, at the head of more than one hundred thousand chosen men, the one from Marseilles, the other from Genoa, set sail to their assistance.

In his voyage to the holy land, accident presented Richard with an unexpected conquest. A vessel of his fleet was driven by a storm to take shelter in the Isle of Cyprus. That island was governed by a prince named 1191
Isaac, of the imperial family of the Comneni; who not only refused all relief to the sufferers, but plundered them of the little remains of their substance. Richard resenting this inhospitable treatment, aggravated by the insolence of the tyrant, turned his force upon Cyprus, van-

BOOK III. A. D. 1191

quished Isaac in the field, took the capital city, and was solemnly crowned king of that island. But deeming it as glorious to give as to acquire a crown, he soon after resigned it to Lusignan to satisfy him for his claim on Jerusalem; in whose descendants it continued for several generations; until passing by marriage into the family of Cornaro, a Venetian nobleman, it was acquired to that state, the only state in Europe which had any real benefit by all the blood and treasure lavished in the holy war.

Richard arrived in Palestine some time after the king of France; his arrival gave new vigour to the operations of the croises. He reduced Acra to surrender at discretion, which had been in vain besieged for two years, and in the siege of which an infinite number of christians had perished; and so much did he distinguish himself on this and on all occasions, that the whole expedition seemed to rest on his single valour. The king of France seeing him fully engaged had all that he desired. The climate was disagreeable to his constitution, and the war, in which he acted but a second part, to his pride. He therefore hastened home to execute his projects against Richard, amusing him with oaths made to be violated; leaving indeed a part of his forces under the duke of Burgundy, but with private orders to give him underhand all possible obstruction. Notwithstanding the desertion of his ally, Richard continued the war with uncommon alacrity. With very unequal numbers, he engaged and defeated the whole army of Salladine, and slew forty thousand of his best troops. He obliged him to evacuate all the towns on the sea-coast; and spread the renown and terror of his arms over all Asia. A thousand great exploits did not however enable him to extend his conquests to the inland country. Jealousy, envy, cabals, and a total want of discipline, reigned in the army of the croises. The climate, and their intemperance more than the climate, wasted them with a swift decay. The vow which brought them to the holy land, was generally for a limited time, at the conclusion of which they were always impatient to depart. Their armies broke up at the most critical conjunctures; as it was not the necessity of the service, but the extent of their vows, which held them together. As soon, therefore, as they had habituated themselves to the country, and attained some experience, they were gone; and new men supplied their

places, to acquire experience by the same misfortunes, and to lose the benefit of it by the same inconstancy. Thus the war could never be carried on with steadiness and uniformity. On the other side, Salladine continually repaired his losses; his resources were at hand; and this great captain very judiciously kept possession of that mountainous country, which, formed by a perpetual ridge of Libanus, in a manner walls in the sea-coast of Palestine; there he hung, like a continual tempest, ready to burst over the christian army. On his rear was the strong city of Jerusalem, which secured a communication with the countries of Chaldea and Mesopotamia, from whence he was well supplied with every thing. If the christians attempted to improve their successes by penetrating to Jerusalem, they had a city powerfully garrisoned in their front, a country wasted and destitute of forage to act in, and Salladine with a vast army on their rear advantageously posted to cut off their convoys and reinforcements.

Richard was labouring to get over these disadvantages, when he was informed by repeated expresses of the disorder of his affairs in Europe; disorders which arose from the ill dispositions he had made at his departure. The heads of his regency had abused their power; they quarrelled with each other, and the nobility with them. A sort of a civil war had arisen, in which they were deposed. Prince John was the main spring of these dissensions; he engaged in a close communication of councils with the king of France, who had seized upon several places in Normandy. It was with regret that Richard found himself obliged to leave a theatre, on which he had planned such an illustrious scene of action. A constant emulation in courtesy and politeness, as well as in military exploits, had been kept up between him and Salladine. He now concluded a truce with that generous enemy; and on his departure sent a messenger to assure him, that on its expiration he would not fail to be again in Palestine. Salladine replied, that if he must lose his kingdom, he would choose to lose it to the king of England. Thus Richard returned, leaving Jerusalem in the hands of the Sarazens; and this end had an enterprise, in which two of the most powerful monarchs in Europe were personally engaged, an army of upwards of one hundred thousand men employed, and to furnish which the whole christian world had been vexed and exhausted. It is a melancholy

BOOK III. reflection, that the spirit of great designs can seldom be inspired, but where the reason of mankind is so uncultivated that they can be turned to little advantage. With
A. D. 1192 this war ended the fortune of Richard, who found the Sarazens less dangerous than his Christian allies. It is not well known what motive induced him to land at Aquileia, at the bottom of the Gulf of Venice, in order to take his route by Germany; but he pursued his journey through the territories of the duke of Austria, whom he had personally affronted at the siege of Acra. And now, neither keeping himself out of the power of that prince, nor rousing his generosity by seeming to confide in it, he attempted to get through his dominions in disguise. Sovereigns do not easily assume the private character; their pride seldom suffers their disguise to be complete; besides, Richard had made himself but too well known. The Duke, transported with the opportunity of base revenge, discovered him, seized him, and threw him into prison; from whence he was only released to be thrown
1193 into another. The emperor claimed him; and, without regarding in this unfortunate captive the common dignity of sovereigns, or his great actions in the common cause of Europe, treated him with yet greater cruelty.

To give a colour of justice to his violence, he proposed to accuse Richard at the diet of the empire upon certain articles relative to his conduct in the holy land. The news of the king's captivity, caused the greatest consternation in all his good subjects; but it revived the hopes and machinations of Prince John, who bound himself by closer ties than ever to the king of France, seized upon some strong holds in England, and industriously spreading a report of his brother's death, publicly laid claim to the crown, as lawful successor. All his endeavours, however, served only to excite the indignation of the people, and to attach them the more firmly to their unfortunate prince. Eleanor, the queen dowager, as good a mother as she had been a bad wife, acted with the utmost vigour and prudence to retain them in their duty, and omitted no means to procure the liberty of her son. The nation seconded her with a zeal, in their circumstances, uncommon. No tyrant ever imposed so severe a tax upon his people, as the affection of the people of England, already exhausted, levied upon themselves. The most favoured religious orders were charged on this occasion. The church plate was sold. The or-

naments of the most holy relics were not spared. And indeed nothing serves more to demonstrate the poverty of the kingdom, reduced by internal dissensions and remote wars, at that time, than the extreme difficulty of collecting the king's ransom, which amounted to no more than one hundred thousand marks of silver, Cologne weight. For raising this sum, the first taxation, the most heavy and general that was ever known in England, proved altogether insufficient. Another taxation was set on foot. It was levied with the same rigour as the former, and still fell short. Ambassadors were sent into Germany with all that could be raised, and with hostages for the payment of whatever remained. The king met these ambassadors as he was carried in chains to plead his cause before the diet of the empire. The ambassadors burst into tears at this affecting sight, and wept aloud; but Richard, though touched no less with the affectionate loyalty of his subjects than with his own fallen condition, preserved his dignity entire in his misfortunes, and with a cheerful air inquired of the state of his dominions; the behaviour of the king of Scotland; and the fidelity of his brother, the Count John. At the diet, no longer protected by the character of a sovereign, he was supported by his personal abilities. He had a ready wit and great natural eloquence; and his high reputation and the weight of his cause pleading for him more strongly, the diet at last interested itself in his favour, and prevailed on the emperor to accept an excessive ransom for dismissing a prisoner whom he detained without the least colour of justice. Philip moved heaven and earth to prevent his enlargement; he negotiated, he promised, he flattered, he threatened, he outbid his extravagant ransom. The emperor, in his own nature more inclined to the bribe, which tempted him to be base, hesitated a long time between these offers. But as the payment of the ransom was more certain than Philip's promises, and as the instances of the diet and the menaces of the pope, who protected Richard as a prince serving under the cross, were of more immediate consequence than his threats, Richard was at length released; and though, it is said, the emperor endeavoured to seize him again, to extort another ransom, he escaped safely into England.

1194

Richard, on his coming to England, found all things in the utmost confusion; but, before he attempted to apply a remedy to so obstinate a disease, in order to wipe off

BOOK III. A. D. 1194

any degrading ideas which might have arisen from his imprisonment, he caused himself to be new crowned. Then holding his court of great council at Southampton, he made some useful regulations in the distribution of justice. He called some great offenders to a strict account. Count John deserved no favour, and he lay entirely at the king's mercy; who, by an unparalleled generosity, pardoned him his multiplied offences; only depriving him of the power of which he had made so bad a use. Generosity did not oblige him to forget the hostilities of the king of France. But to prosecute the war, money was wanting, which new taxes and new devices supplied with difficulty and with dishonour. All the mean oppressions of a necessitous government were exercised on this occasion. All the grants which were made on the king's departure to the holy land were revoked, on the weak pretence, that the purchasers had sufficient recompense whilst they held them. Necessity seemed to justify this as well as many other measures that were equally violent. The whole revenue of the crown had been dissipated; means to support its dignity must be found; and these means were the least unpopular, as most men saw with pleasure the wants of government fall upon those who had started into a sudden greatness by taking advantage of those wants.

Richard renewed the war with Philip, which continued, though frequently interrupted by truces, for about five years. In this war, Richard signalized himself by that irresistible courage, which, on all occasions, gave him a superiority over the king of France. But his revenues were exhausted; a great scarcity reigned both in France and England; and the irregular manner of carrying on war in those days prevented a clear decision in favour of either party. Richard had still an eye on the holy land, which he considered as the only province worthy of his arms; and this continually diverted his thoughts from the steady prosecution of the war in France. The crusade, like a superior orb, moved along with all the particular systems of politics of that time, and suspended, accelerated, or put back all operations, on motives foreign to the things themselves. In this war, it must be remarked, that Richard made a considerable use of the mercenaries who had been so serviceable to Henry the Second; and the king of France, perceiving how much his father Lewis had suffered by a want of that advan-

tage, kept on foot a standing army in constant pay, which none of his predecessors had done before him, and which afterwards for a long time very unaccountably fell into disuse in both kingdoms.

Whilst this war was carried on by intervals and starts, it came to the ears of Richard, that a nobleman of Limoges had found on his lands a considerable hidden treasure. The king, necessitous and rapacious to the last degree, and stimulated by the exaggeration and marvellous circumstances, which always attend the report of such discoveries, immediately sent to demand the treasure, under pretence of the rights of seigniory. The Limosin, either because he had really discovered nothing, or that he was unwilling to part with so valuable an acquisition, refused to comply with the king's demand, and fortified his castle. Enraged at the disappointment, Richard relinquished the important affairs, in which he was engaged, and laid siege to this castle with all the eagerness of a man, who has his heart set upon a trifle. In this siege he received a wound from an arrow, and it proved mortal; but in the last, as in all the other acts of his life, something truly noble shone out amidst the rash and irregular motions of his mind. The castle was taken before he died. The man, from whom Richard had received the wound, was brought before him. Being asked, why he levelled his arrow at the king, he answered with an undaunted countenance, "That the king with his own hand had slain his two brothers; that he thanked God, who gave him an opportunity to revenge their deaths, even with the certainty of his own." Richard, more touched with the magnanimity of the man than offended at the injury he had received, or the boldness of the answer, ordered that his life should be spared. He appointed his brother John to the succession; and 1198
with these acts ended a life and reign distinguished by a great variety of fortunes in different parts of the world, and crowned with great military glory; but without any accession of power to himself or prosperity to his people, whom he entirely neglected, and reduced by his imprudence and misfortunes to no small indigence and distress.

In many respects, a striking parallel presents itself between this ancient king of England and Charles XII. of Sweden. They were both inordinately desirous of war, and rather generals than kings. Both were rather

BOOK III. A. D.

fond of glory than ambitious of empire. Both of them made and deposed sovereigns. They both carried on their wars at a distance from home. They were both made prisoners by a friend and ally. They were both reduced by an adversary inferior in war, but above them in the arts of rule. After spending their lives in remote adventures, each perished at last near home, in enterprises not suited to the splendour of their former exploits. Both died childless; and both, by the neglect of their affairs, and the severity of their government, gave their subjects provocation and encouragement to revive their freedom. In all these respects the two characters were alike; but Richard fell as much short of the Swedish hero in temperance, chastity, and equality of mind, as he exceeded him in wit and eloquence. Some of his sayings are the most spirited that we find in that time; and some of his verses remain, which in a barbarous age might have passed for poetry.

CHAP. VIII.

Reign of John.

We are now arrived at one of the most memorable periods in the English story: whether we consider the astonishing revolutions, which were then wrought; the calamities, in which both the prince and the people were involved; or the happy consequences, which, arising from the midst of those calamities, have constituted the glory and prosperity of England for so many years.
1199 We shall see a throne, founded in arms, and augmented by the successive policy of five able princes, at once shaken to its foundations; first made tributary by the arts of a foreign power; then limited and almost overturned by the violence of its subjects. We shall see a king, to reduce his people to obedience, draw into his territories a tumultuary foreign army, and destroy his country instead of establishing his government. We shall behold the people, grown desperate, call in another foreign army, with a foreign prince at its head, and throw away that liberty which they had sacrificed every thing to preserve. We shall see the arms of this prince successful against an established king in the vigour of his

years, ebbing in the full tide of their prosperity, and yielding to an infant; after this, peace, and order, and liberty restored; the foreign force and foreign title purged off, and all things settled as happily as beyond all hope.

Richard dying without lawful issue, the succession to his dominions again became dubious. They consisted of various territories governed by various rules of descent, and all of them uncertain. There were two competitors; the first was Prince John, youngest son of Henry II.; the other was Arthur, son of Constance of Bretagne, by Geoffrey, the third son of that monarch. If the right of consanguinity were only considered, the title of John to the whole succession had been indubitable. If the right of representation had then prevailed, which now universally prevails, Arthur, as standing in the place of his father Geoffrey, had a solid claim. About Brittany there was no dispute. Anjou, Poitou, Touraine, and Guienne, declared in favour of Arthur, on the principle of representation. Normandy was entirely for John. In England the point of law had never been entirely settled, but it seemed rather inclined to the side of consanguinity. Therefore in England, where this point was dubious at best, the claim of Arthur, an infant and a stranger, had little force against the pretensions of John, declared heir by the will of the late king, supported by his armies, possessed of his treasures, and at the head of a powerful party. He secured in his interests Hubert, archbishop of Canterbury, and Glanville, the chief justiciary; and by them the body of the ecclesiastics and the law. It is remarkable also that he paid court to the cities and boroughs, which is the first instance of that policy; but several of these communities now happily began to emerge from their slavery, and, taking advantage of the necessities and confusion of the late reign, increased in wealth and consequence, and had then first attained a free and regular form of administration. The towns, new to power, declared heartily in favour of a prince, who was willing to allow that their declaration could confer a right. The nobility, who saw themselves beset by the church, the law, and the burghers, had taken no measures, nor even a resolution; and therefore had nothing left but to concur in acknowledging the title of John, whom they knew and has

BOOK III. A. D. 1199

ted. But, though they were not able to exclude him from the succession, they had strength enough to oblige him to a solemn promise of restoring those liberties and franchises, which they had always claimed, without having ever enjoyed or even perfectly understood. The clergy also took advantage of the badness of his title, to establish one altogether as ill founded. Hubert, archbishop of Canterbury, in the speech which he delivered at the king's coronation, publicly affirmed that the crown of England was of right elective. He drew his examples in support of this doctrine, not from the histories of the ancient Saxon kings, although a species of election within a certain family had then frequently prevailed, but from the history of the first kings of the Jews; without doubt in order to revive those pretensions, which the clergy first set up in the election of Stephen, and which they had since been obliged to conceal, but had not entirely forgotten. John accepted a sovereignty weakened in the very act by which he acquired it; but he submitted to the times. He came to the throne at the age of thirty-two. He had entered early into business; and had been often involved in difficult and arduous enterprises, in which he experienced a variety of men and fortunes. His father, whilst he was very young, had sent him into Ireland, which kingdom was destined for his portion, in order to habituate that people to their future sovereign, and to give the young prince an opportunity of conciliating the favour of his new subjects. But he gave on this occasion no good omens of capacity for government. Full of the insolent levity of a young man of high rank without education, and surrounded with others equally unpractised, he insulted the Irish chiefs; and ridiculing their uncouth garb and manners, he raised such a disaffection to the English government, and so much opposition to it, as all the wisdom of his father's best officers and counsellors was hardly able to overcome. In the decline of his father's life he joined in the rebellion of his brothers, with so much more guilt, as with more ingratitude and hypocrisy. During the reign of Richard, he was the perpetual author of seditions and tumults; and yet was pardoned and even favoured by that prince to his death, when he very unaccountably appointed him heir to all his dominions.

It was of the utmost moment to John, who had no solid title, to conciliate the favour of all the world. Yet

one of his first steps, whilst his power still remained dubious and unsettled, was, on pretence of consanguinity, to divorce his wife Avisa, with whom he had lived many years, and to marry Isabella of Angouleme, a woman of extraordinary beauty, but who had been betrothed to Hugh, count of Marche; thus disgusting at once the powerful friends of his divorced wife, and those of the earl of Marche, whom he had so sensibly wronged. CHAP. VIII. A. D. 1199

The king of France, Philip Augustus, saw with pleasure these proceedings of John; as he had before rejoiced at the dispute about the succession. He had been always employed, and sometimes with success, to reduce the English power, through the reigns of one very able, and one very warlike prince. He had greater advantages in this conjuncture, and a prince of quite another character now to contend with. He was therefore not long without choosing his part; and whilst he secretly encouraged the count of Marche, already stimulated by his private wrongs, he openly supported the claim of Arthur to the duchies of Anjou and Touraine. It was the character of this prince readily to lay aside and as readily to reassume his enterprises, as his affairs demanded. He saw that he had declared himself too rashly, and that he was in danger of being assaulted upon every side. He saw it was necessary to break an alliance, which the nice circumstances and timid character of John would enable him to do. In fact, John was at this time united in a close alliance with the emperor and the earl of Flanders; and these princes were engaged in a war with France. He had then a most favourable opportunity to establish all his claims, and at the same time to put the king of France out of a condition to question them ever after. But he suffered himself to be overreached by the artifices of Philip; he consented to a treaty of peace, by which he received an empty acknowledgment of his right 1200
to the disputed territories; and in return for which acknowledgment he renounced his alliance with the emperor. By this act he at once strengthened his enemy, gave up his ally, and lowered his character with his subjects, and with all the world.

This treaty was hardly signed, when the ill conse- 1201
quences of his conduct became evident. The earl of Marche and Arthur immediately renewed their claims and hostilities, under the protection of the king of France, who made a strong diversion by invading Normandy. At

BOOK III. A. D. 1201

the commencement of these motions, John, by virtue of a prerogative hitherto undisputed, summoned his English barons to attend him into France; but instead of a compliance with his orders, he was surprised with a solemn demand of their ancient liberties. It is astonishing that the barons should at that time have ventured on a resolution of such dangerous importance, as they had provided no sort of means to support them. But the history of those times furnishes many instances of the like want of design in the most momentous affairs; and shows, that it is in vain to look for political causes for the actions of men, who were most commonly directed by a brute caprice, and were for the greater part destitute of any fixed principles of obedience or resistance. The king, sensible of the weakness of his barons, fell upon some of their castles with such timely vigour, and treated those whom he had reduced with so much severity, that the rest immediately and abjectly submitted. He levied a severe tax upon their fiefs; and thinking himself more strengthened by this treasure, than the forced service of his barons, he excused the personal attendance of most of them, and passing into Normandy, he raised
1202 an army there. He found that his enemies had united their forces, and invested the castle of Mirabel, a place of importance; in which his mother, from whom he derived his right to Guienne, was besieged. He flew to the relief of this place with the spirit of a greater character, and the success was answerable. The Breton and Poictevin army was defeated; his mother was freed; and the young duke of Brittany and his sister were made prisoners. The latter he sent into England to be confined in the castle of Bristol; the former he carried with him to Rouen. The good fortune of John now seemed to be at its highest point; but it was exalted on a precipice; and this great victory proved the occasion of all the evils which afflicted his life.

John was not of a character to resist the temptation of having the life of his rival in his hands. All historians are as fully agreed that he murdered his nephew, as they differ in the means by which he accomplished that crime. But the report was soon spread abroad, variously heightened in the circumstances by the obscurity of the fact, which left all men at liberty to imagine and invent; and excited all those sentiments of pity and indignation, which a very young prince of great hopes, cruelly mur-

dered by his uncle, naturally inspire. Philip had never missed an occasion of endeavouring to ruin the king of England; and having now acquired an opportunity of accomplishing that by justice, which he had in vain sought by ambition, he filled every place with complaints of the cruelty of John, whom, as a vassal to the crown of France, the king accused of the murder of another vassal, and summoned him to Paris to be tried by his peers. It was by no means consistent either with the dignity or safety of John to appear to this summons. He had the argument of kings to justify what he had done. But as in all great crimes, there is something of a latent weakness, and in a vicious caution something material is ever neglected, John, satisfied with removing his rival, took no thought about his enemy; but whilst he saw 1203
himself sentenced for non-appearance in the court of peers; whilst he saw the king of France entering Normandy with a vast army, in consequence of this sentence, and place after place, castle after castle, falling before him, he passed his time at Rouen in the profoundest tranquillity; indulging himself in indolent amusements, and satisfied with vain threatenings and boasts, which only added greater shame to his inactivity. The English barons, who had attended him in this expedition, disaffected from the beginning, and now wearied with being so long witnesses to the ignominy of their sovereign, retired to their own country, and there spread the report of his unaccountable sloth and cowardice. John quickly followed them; and returning into his kingdom, polluted with the charge of so heavy a crime, and disgraced by so many follies, instead of aiming by popular acts to re-establish his character, he exacted a seventh of their moveables from the barons, on pretence that they had deserted his service. He laid the same imposition on the clergy; without giving himself the trouble of seeking for a pretext. He made no proper use of these great supplies; but saw the great city of Rouen, always faithful to its sovereigns, and now exerting the most strenuous efforts in his favour, obliged at length to surrender, without the least attempt to relieve it. Thus the whole duchy of Normandy, originally acquired by the valour of his ancestors, and the source from which the greatness of his family had been derived, after being supported against all shocks for three hundred years, was torn forever from the stock of Rollo, and re-

BOOK III. A. D. 1203

united to the crown of France. Immediately all the rest of the provinces, which he held on the continent, except a part of Guienne, despairing of his protection, and abhorring his government, threw themselves into the hands of Philip.

Meanwhile, the king, by his personal vices, completed the odium which he had acquired by the impotent violence of his government. Uxorious, and yet dissolute in his manners, he made no scruple frequently to violate the wives and daughters of his nobility; that rock on which tyranny has so often split. Other acts of irregular power, in their greatest excesses, still retain the characters of sovereign authority; but here the vices of the prince intrude into the families of the subject; and whilst they aggravate the oppression, lower the character of the oppressor.

In the disposition which all these causes had concurred universally to diffuse, the slightest motion in his kingdom threatened the most dangerous consequences. Those things, which in quiet times would have only raised a slight controversy, now, when the minds of men were exasperated and inflamed, were capable of affording matter to the greatest revolutions. The affairs of the church, the winds, which mostly governed the fluctuating people, were to be regarded with the utmost attention. Above all, the person who filled the see of Canterbury, which stood on a level with the throne itself, was a matter of the last importance. Just at this critical time died Hubert, archbishop of that see; a man who had a large share in procuring the crown for John, and in weakening its authority by his acts at the ceremony of the coronation, as well as by his subsequent conduct. Immediately on the death of this prelate, a cabal of obscure monks, of the abbey of St. Augustin, assemble by night; and first binding themselves by a solemn oath not to divulge their proceedings until they should be confirmed by the pope, they elect one Reginald, their sub-prior, archbishop of Canterbury. The person elected immediately crossed the seas; but his vanity soon discovered the secret of his greatness. The king received the news of this transaction with surprise and indignation. Provoked at such a contempt of his authority, he fell severely on the monastery, no less surprised than himself at the clandestine proceeding of some of its members. But the sounder part pacified him in some measure by their submission.

They elected a person recommended by the king; and sent fourteen of the most respectable of their body to Rome, to pray that the former proceedings should be annulled, and the later and more regular confirmed. To this matter of contention another was added. A dispute had long subsisted between the suffragan bishops of the province of Canterbury and the monks of the abbey of St. Austin; each claiming a right to elect the metropolitan. This dispute was now revived, and pursued with much vigour. The pretensions of the three contending parties were laid before the pope, to whom such disputes were highly pleasing; as he knew that all claimants willingly conspire to flatter and aggrandize that authority, from which they expect a confirmation of their own. The first election he nulled, because its irregularity was glaring. The right of the bishops was entirely rejected. The pope looked with an evil eye upon those whose authority was every day usurping. The second election was set aside, as made at the king's instance. This was enough to make it very irregular. The canon law had now grown up to its full strength. The enlargement of the prerogative of the pope was the great object of this jurisprudence; a prerogative, which, founded on fictitious monuments, that are forged in an ignorant age, easily admitted by a credulous people, and afterwards confirmed and enlarged by these admissions, not satisfied with the supremacy, encroached on every minute part of church government, and had almost annihilated the episcopal jurisdiction throughout Europe. Some canons had given the metropolitan a power of nominating a bishop, when the circumstances of the election were palpably irregular; and as it does not appear that there was any other judge of the irregularity than the metropolitan himself, the election below in effect became nugatory. The pope, taking the irregularity in this case for granted, in virtue of this canon, and by his plenitude of power, ordered the deputies of Canterbury to proceed to a new election. At the same time, he recommended to their choice Stephen Langton, their countryman; a person already distinguished for his learning, of irreproachable morals, and free from every canonical impediment. This authoritative request the monks had not the courage to oppose in the pope's presence, and in his own city. They murmured and submitted. In England this proceeding was not so easily ratified: John

BOOK III. A. D. 1203

united to the crown of France. Immediately all the rest of the provinces, which he held on the continent, except a part of Guienne, despairing of his protection, and abhorring his government, threw themselves into the hands of Philip.

Meanwhile, the king, by his personal vices, completed the odium which he had acquired by the impotent violence of his government. Uxorious, and yet dissolute in his manners, he made no scruple frequently to violate the wives and daughters of his nobility; that rock on which tyranny has so often split. Other acts of irregular power, in their greatest excesses, still retain the characters of sovereign authority; but here the vices of the prince intrude into the families of the subject; and whilst they aggravate the oppression, lower the character of the oppressor.

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BOOK III. A. D. 1211

France; his army was in every thing but heartiness to the cause equal, and, extending along the coast of Kent, expected the descent of the French forces. Whilst these two mighty armies overspread the opposite coasts, and the sea was covered with their fleets, and the decision of so vast an event was hourly expected, various thoughts arose in the minds of those who moved the springs of these affairs. John, at the head of one of the finest armies in the world, trembled inwardly when he reflected how little he possessed or merited their confidence. Wounded by the conscience of his crimes, excommunicated by the pope, hated by his subjects, in danger of being at once abandoned by heaven and earth, he was filled with the most fearful anxiety. The legates of the pope had hitherto seen every thing succeed to their wish. But having made use of an instrument too great for them to wield, they apprehended that when it had overthrown their adversary, it might recoil upon the court of Rome itself; that to add England to the rest of Philip's great possessions was not the way to make him humble; and that in ruining John, to aggrandize that monarch, they should set up a powerful enemy in the place of a submissive vassal.

They had done enough to give them a superiority in any negociation, and they privately sent an embassy to the king of England. Finding him very tractable, they hasted to complete the treaty. The pope's legate, Pandulph, was intrusted with this affair. He knew the nature of men to be such, that they seldom engage willingly if the whole of an hardship be shown them at first, but that having advanced a certain length, their former concessions are an argument with them to advance further, and to give all because they have already given a great deal. Therefore he began with exacting an oath from the king, by which, without showing the extent of his design, he engaged him to every thing he could ask. John swore to submit to the legate in all things relating to his excommunication. And first he was obliged to accept Langton as archbishop; then to restore the monks of Canterbury and other deprived ecclesiastics; and to make them a full indemnification for all their losses. And now, by these concessions, all things seemed to be perfectly settled. The cause of the quarrel was entirely removed. But when the king expected for so perfect a submission a full absolution, the legate began a laboured

harangue on his rebellion, his tyranny, and the innumerable sins he had committed; and in conclusion, declared that there was no way left to appease God and the church, but to resign his crown to the holy see, from whose hands he should receive it purified from all pollutions, and hold it for the future by homage and an annual tribute.

CHAP. VIII. A. D. 1211

John was struck motionless at a demand so extravagant and unexpected. He knew not on which side to turn. If he cast his eyes toward the coast of France, he there saw his enemy Philip, who considered him as a criminal as well as an enemy, and who aimed not only at his crown but his life, at the head of an innumerable multitude of fierce people, ready to rush in upon him. If he looked at his own army, he saw nothing there but coldness, disaffection, uncertainty, distrust, and a strength, in which he knew not whether he ought most to confide or fear. On the other hand, the papal thunders, from the wounds of which he was still sore, were levelled full at his head. He could not look steadily at these complicated difficulties; and truly it is hard to say what choice he had, if any choice were left to kings in what concerns the independence of their crown. Surrounded therefore with these difficulties, and that all his late humiliations might not be rendered as ineffectual as they were ignominious, he took the last step; and, in the presence of a numerous assembly of his peers and prelates, who turned their eyes from this mortifying sight, formally resigned his crown to the pope's legate; to whom, at the same time, he did homage, and paid the first fruits of his tribute. Nothing could be added to the humiliation of the king, upon this occasion, but the insolence of the legate, who spurned the treasure with his foot, and let the crown remain a long time on the ground, before he restored it to the degraded owner.

In this proceeding the motives of the king may be easily discovered; but how the barons of the kingdom, who were deeply concerned, suffered without any protestation the independency of the crown to be thus forfeited, is mentioned by no historian of that time. In civil tumults, it is astonishing how little regard is paid by all parties to the honour or safety of their country. The king's friends were probably induced to acquiesce by the same motives that had influenced the king; his enemies, who were the most numerous, perhaps saw his abase-

BOOK III. A. D. 1211

ment with pleasure, as they knew this action might be one day employed against him with effect. To the bigots it was enough that it aggrandized the pope. It is perhaps worthy of observation, that the conduct of Pandulph towards King John bore a very great affinity to that of the Roman consuls to the people of Carthage in the last Punic war; drawing them from concession to concession, and carefully concealing their design until they made it impossible for the Carthaginians to resist. Such a strong resemblance did the same ambition produce in such distant times; and it is far from the sole instance in which we may trace a similarity between the spirit and conduct of the former and latter Rome, in their common design on the liberties of mankind.

1213 The legates, having thus triumphed over the king, passed back into France; but without relaxing the interdict or excommunication, which they still left hanging over him, lest he should be tempted to throw off the chains of his new subjection. Arriving in France, they delivered their orders to Philip with as much haughtiness as they had done to John. They told him that the end of the war was answered, in the humiliation of the king of England, who had been rendered a dutiful son of the church: and that if the king of France should, after this notice, proceed to further hostilities, he had to apprehend the same sentence, which had humbled his adversary. Philip, who had not raised so great an army with the view of reforming the manners of king John, would have slighted these threats, had he not found that they were seconded by the ill dispositions of a part of his own army. The earl of Flanders, always disaffected to his cause, was glad of this opportunity to oppose him; and only following him through fear, withdrew his forces, and now openly opposed him. Philip turned his arms against his revolted vassal. The cause of John was revived by this dissension; and his courage seemed rekindled. Making one effort of a vigorous mind, he brought his fleet to an action with the French navy, which he entirely destroyed on the coast of Flanders; and thus freed himself from the terror of an invasion. But when he intended to embark and improve his success, the barons refused to follow him. They alleged that he was still excommunicated; and that they would not follow a lord under the censures of the church. This demonstrated to the king the necessity of a speedy absolution; and he

received it this year from the hands of Cardinal Langton. CHAP. VIII.

That archbishop no sooner came into the kingdom, than he discovered designs very different from those which the pope had raised him to promote. He formed schemes of a very deep and extensive nature; and became the first mover in all the affairs which distinguish the remainder of this reign. In the oath which he administered to John on his absolution, he did not confine himself solely to the ecclesiastical grievances; but made him swear to amend his civil government; to raise no tax without the consent of the great council; and to punish no man but by the judgment of his court. In these terms we may see the great charter traced in miniature. A new scene of contention was opened; new pretensions were started; a new scheme was displayed. One dispute was hardly closed, when he was involved in another; and this unfortunate king soon discovered, that to renounce his dignity was not the way to secure his repose. For being cleared of the excommunication, he resolved to pursue the war in France, in which he was not without a prospect of success; but the barons refused, upon new pretences, and not a man would serve. The king, incensed to find himself equally opposed in his lawful and unlawful commands, prepared to avenge himself in his accustomed manner; and to reduce the barons to obedience by carrying war into their estates. But he found by this experiment, that his power was at an end. The archbishop followed him; confronted him with the liberties of his people; reminded him of his late oath; and threatened to excommunicate every person who should obey him in his illegal proceedings. The king, first provoked, afterwards terrified at this resolution, forbore to prosecute the recusants. A. D. 1213

The English barons had privileges which they knew to have been violated; they had always kept up the memory of the ancient Saxon liberty; and if they were the conquerors of Britain, they did not think that their own servitude was the just fruit of their victory. They had, however, but an indistinct view of the object at which they aimed; they rather felt their wrongs, than understood the cause of them; and having no head nor council, they were more in a condition of distressing their king, and disgracing their country by their disobedience, than of applying any effectual remedy to their 1214

BOOK III. A. D. 1214

grievances. Langton saw these dispositions and these wants. He had conceived a settled plan for reducing the king; and all his actions tended to carry it into execution. This prelate, under pretence of holding an ecclesiastical synod, drew together, privately, some of the principal barons to the church of St. Paul in London. There, having expatiated on the miseries which the kingdom suffered, and having explained at the same time the liberties to which it was entitled, he produced the famous charter of Henry I. long concealed, and of which, with infinite difficulty, he had procured an authentic copy. This he held up to the barons as the standard about which they were to unite. These were the liberties which their ancestors had received by the free concession of a former king; and these the rights which their virtue was to force from the present, if (which God forbid) they should find it necessary to have recourse to such extremities. The barons, transported to find an authentic instrument to justify their discontent, and to explain and sanction their pretensions, covered the archbishop with praises; readily confederated to support their demands; and binding themselves by every obligation of human and religious faith, to vigour, unanimity, and secresy, they depart to confederate others in their design.

This plot was in the hands of too many to be perfectly concealed; and John saw, without knowing how to ward it off, a more dangerous blow levelled at his authority, than any of the former. He had no resources within his kingdom, where all ranks and orders were united against him, by one common hatred. Foreign alliance he had none among temporal powers. He endeavoured, therefore, if possible, to draw some benefit from the misfortune of his new circumstances; he threw himself upon the protection of the papal power, which he had so long, and with such reason opposed. The pope readily received him into his protection; but took this occasion to make him purchase it by another and more formal resignation of his crown. His present necessities, and his habits of humiliation, made this second degradation easy to the king. But Langton, who no longer acted in subservience to the pope, from whom he had now nothing further to expect, and who had put himself at the head of the patrons of civil liberty, loudly exclaimed at this indignity; protested against the resignation, and laid his protestation on the altar.

This was more disagreeable to the barons than the first resignation, as they were sensible that he now degraded himself only to humble his subjects. They were, however, once more patient witnesses to that ignominious act; and were so much overawed by the pope, or had brought their design to so little maturity, that the king, in spite of it, still found means and authority to raise an army, with which he made a final effort to recover some part of his dominions in France. The juncture was altogether favourable to his design. Philip had all his attention abundantly employed in another quarter against the terrible attacks of the Emperor Otho, in a confederacy with the earl of Flanders. John, strengthened by this diversion, carried on the war in Poictou for some time with good appearances. The battle of Bouvines, which was fought this year, put an end to all these hopes. In this battle, the imperial army, consisting of one hundred and fifty thousand men, were defeated by a third of their number of French forces. The emperor himself, with difficulty escaping from the field, survived but a short time a battle which entirely broke his strength. So signal a success established the grandeur of France upon immoveable foundations. Philip rose continually in reputation and power, whilst John continually declined in both; and as the king of France was now ready to employ against him all his forces so lately victorious, he sued, by the mediation of the pope's legate, for a truce, which was granted to him for five years. Such truces stood in the place of regular treaties of peace, which were not often made at that time.

A. D. 1214

The barons of England had made use of the king's absence, to bring their confederacy to form: and now seeing him return with so little credit, his allies discomfited, and no hope of a party among his subjects; they appeared in a body before him at London. All in complete armour, and in the guise of defiance, they presented a petition, very humble in the language, but excessive in the substance; in which they declared their liberties, and prayed that they might be formally allowed and established by the royal authority. The king resolved not to submit to their demands; but being at present in no condition to resist, he required time to consider of so important an affair. The time which was granted to the king to deliberate, he employed in finding means to avoid a compliance. He took the cross, by which he hoped to

1215

BOOK III. A. D. 1215

render his person sacred. He obliged the people to renew their oath of fealty; and lastly, he had recourse to the pope. Fortified by all the devices which could be used to supply the place of a real strength, he ventured, when the barons renewed their demands, to give them a positive refusal; he swore by the feet of God (his usual oath) that he would never grant them such liberties as must make a slave of himself.

The barons, on this answer, immediately fly to arms: they rise in every part; they form an army and appoint a leader; and as they knew that no design can involve all sorts of people, or inspire them with extraordinary resolution, unless it be animated with religion, they called their leader the marshal of the army of God and holy church. The king was wholly unprovided against so general a defection. The city of London, the possession of which has generally proved a decisive advantage in the English civil wars, was betrayed to the barons. He might rather be said to be imprisoned than defended in the tower of London, to which close siege was laid; whilst the marshal of the barons' army, exercising the prerogatives of royalty, issued writs to summon all the lords to join the army of liberty; threatening equally all those who should adhere to the king, and those who betrayed an indifference to the cause by their neutrality. John, deserted by all, had no resource but in temporizing and submission. Without questioning in any part the terms of a treaty, which he intended to observe in none, he agreed to every thing the barons thought fit to ask; hoping that the exorbitancy of their demands would justify in the eyes of the world the breach of his promises. The instruments by which the barons secured their liberties were drawn up in form of charters, and in the manner by which grants had been usually made to monasteries; with a preamble, signifying that it was done for the benefit of the king's soul, and those of his ancestors. For the place of solemnizing this remarkable act, they chose a large field, overlooked by Windsor, called Running-mede, which in our present tongue signifies the Meadow of Council; a place long consecrated by public opinion, as that wherein the quarrels and wars which arose in the English nation, when divided into kingdoms or factions, had been terminated from the remotest times. Here it was that king John, on the 15th day of June, in the year of our Lord 1215, signed those two

memorable instruments, which first disarmed the crown of its unlimited prerogatives, and laid the foundation of English liberty. One was called the Great Charter; the other, the Charter of the Forest. If we look back to the state of the nation at that time, we shall the better comprehend the spirit and necessity of these grants.

Beside the ecclesiastical jurisprudence at that time, two systems of laws, very different from each other in their object, their reason, and their authority, regulated the interior of the kingdom: the forest law and the common law. After the northern nations had settled here and in other parts of Europe, hunting, which had formerly been the chief means of their subsistence, still continued their favourite diversion. Great tracts of each country, wasted by the wars in which it was conquered, were set apart for this kind of sport, and guarded in a state of desolation by strict laws and severe penalties. When such waste lands were in the hands of subjects, they were called chases; when in the power of the sovereign, they were denominated forests. These forests lay properly within the jurisdiction of no hundred, county, or bishoprick; and therefore, being out both of the common and the spiritual law, they were governed by a law of their own, which was such as the king by his private will thought proper to impose. There were reckoned in England no less than sixty-eight royal forests; some of them of vast extent. In these great tracts were many scattered inhabitants; and several persons had property of wood-land, and other soil, enclosed within their bounds. Here the king had separate courts and particular justiciaries; a complete jurisprudence, with all its ceremonies and terms of art, was formed: and it appears that these laws were better digested, and more carefully enforced, than those which belonged to civil government. They had indeed all the qualities of the worst of laws. Their professed object was to keep a great part of the nation desolate. They hindered communication, and destroyed industry. They had a trivial object, and most severe sanctions; for as they belonged immediately to the king's personal pleasures, by the lax interpretation of treason in those days, all considerable offences against the forest law, such as killing the beasts of game, were considered as high treason, and punished, as high treason then was, by truncation of limbs, and loss of eyes

BOOK III. A. D. 1215

and testicles. Hence arose a thousand abuses, vexatious suits, and pretences for imposition upon all those who lived in or near these places. The deer were suffered to run loose upon their lands; and many oppressions were used with relation to the claim of commonage, which the people had in most of the forests. The Norman kings were not the first makers of the forest law. It subsisted under the Saxon and Danish kings. Canute the Great composed a body of those laws, which still remains. But under the Norman kings they were enforced with greater rigour; as the whole tenour of the Norman government was more rigorous. Besides, new forests were frequently made, by which private property was outraged in a grievous manner. Nothing perhaps shows more clearly how little men are able to depart from the common course of affairs, than that the Norman kings, princes of great capacity, and extremely desirous of absolute power, did not think of peopling these forests; places under their own uncontrolled dominion, and which might have served as so many garrisons dispersed throughout the country. The charter of the forests had for its object the disafforesting several of those tracts; the prevention of future afforestings; the mitigation and ascertainment of the punishments for breaches of the forest law.

The common law, as it then prevailed in England, was in a great measure composed of some remnants of the old Saxon customs, joined to the feudal institutions brought in at the Norman conquest. And it is here to be observed, that the constitutions of magna charta are by no means a renewal of the laws of St. Edward, or the ancient Saxon laws, as our historians and law writers generally, though very groundlessly, assert. They bear no resemblance in any particular to the laws of St. Edward, or to any other collection of those ancient institutions. Indeed, how should they? The object of magna charta is the correction of the feudal policy; which was first introduced, at least in any regular form, at the conquest, and did not subsist before it. It may be further observed, that in the preamble to the great charter, it is stipulated that the barons shall *hold* the liberties there granted *to them and their heirs*, from the *king and his heirs:* which shows that the doctrine of an unalienable tenure was always uppermost in their minds. Their idea even of liberty was not (if I may use the expression) perfectly free; and they did not claim to possess their

privileges upon any natural principle or independent bottom, but just as they held their lands from the king. This is worthy of observation. CHAP. VIII. A. D. 1215

By the feudal law, all landed property is, by a feigned conclusion, supposed to be derived, and therefore to be mediately or immediately held from the crown. If some estates were so derived, others were certainly procured by the same original title of conquest, by which the crown itself was acquired; and the derivation from the king could in reason only be considered as a fiction of law. But its consequent rights being once supposed, many real charges and burthens grew from a fiction made only for the preservation of subordination; and, in consequence of this, a great power was exercised over the persons and estates of the tenants. The fines on the succession to an estate, called in the feudal language *reliefs*, were not fixed to any certainty; and were therefore frequently made so excessive, that they might rather be considered as redemptions or new purchases, than acknowledgments of superiority and tenure. With respect to that most important article of marriage, there was, in the very nature of the feudal holding, a great restraint laid upon it. It was of importance to the lord, that the person who received the feud should be submissive to him; he had therefore a right to interfere in the marriage of the heiress who inherited the feud. This right was carried further than the necessity required; the male heir himself was obliged to marry according to the choice of his lord; and even widows, who had made one sacrifice to the feudal tyranny, were neither suffered to continue in the widowed state, nor to choose for themselves the partners of their second bed. In fact, marriage was publicly set up to sale. The ancient records of the exchequer afford many instances where some women purchased, by heavy fines, the privilege of a single life; some the free choice of an husband; others the liberty of rejecting some person particularly disagreeable. And, what may appear extraordinary, there are not wanting examples, where a woman has fined in a considerable sum, that she might not be compelled to marry a certain man; the suitor on the other hand has outbid her; and solely by offering more for the marriage than the heiress could to prevent it, he carried his point directly and avowedly against her inclinations. Now, as the king claimed no right over his immediate tenants, that they did not exercise in the same

BOOK III. A. D. 1215

or in a more oppressive manner over their vassals, it is hard to conceive a more general and cruel grievance than this shameful market; which so universally outraged the most sacred relations among mankind. But the tyranny over women was not over with the marriage. As the king seized into his hands the estate of every deceased tenant, in order to secure his relief; the widow was driven often by an heavy composition to purchase the admission to her dower, into which it should seem she could not enter without the king's consent.

All these were marks of a real and grievous servitude. The great charter was made not to destroy the root, but to cut short the overgrown branches of the feudal service; first, in moderating and in reducing to a certainty the reliefs which the king's tenants paid on succeeding to their estate, according to their rank; and, secondly, in taking off some of the burthens which had been laid on marriage, whether compulsory or restrictive; and thereby preventing that shameful market which had been made in the persons of heirs, and the most sacred things amongst mankind.

There were other provisions made in the great charter, that went deeper than the feudal tenure, and affected the whole body of the civil government. A great part of the king's revenue then consisted in the fines and amercements which were imposed in his courts. A fine was paid there for liberty to commence or to conclude a suit. The punishment of offences by fine was discretionary; and this discretionary power had been very much abused. But by magna charta things were so ordered, that a delinquent might be punished, but not ruined, by a fine or amercement; because the degree of his offence, and the rank he held, were to be taken into consideration. His freehold, his merchandise, and those instruments by which he obtained his livelihood, were made sacred from such impositions.

A more grand reform was made with regard to the administration of justice. The kings in those days seldom resided long in one place, and their courts followed their persons. This erratic justice must have been productive of infinite inconvenience to the litigants. It was now provided, that civil suits, called *common pleas*, should be fixed to some certain place. Thus one branch of jurisdiction was separated from the king's court, and detached from his person. They had not yet come to that matu-

rity of jurisprudence, to think this might be made to extend to criminal law also; and that this was an object of still greater importance. But even this may be considered as a great revolution. A tribunal, a creature of mere law, independent of personal power, was established; and this separation of a king's authority from his person was a matter of vast consequence towards introducing ideas of freedom, and confirming the sacredness and majesty of laws.

But the grand article, and that which cemented all the parts of the fabric of liberty, was this, "That no freeman shall be taken, or imprisoned, or disseized, or outlawed, or banished, or in any wise destroyed, but by judgment of his peers."

There is another article of nearly as much consequence as the former, considering the state of the nation at that time; by which it is provided, that the barons shall grant to their tenants the same liberties which they had stipulated for themselves. This prevented the kingdom from degenerating into the worst imaginable government, a feudal aristocracy. The English barons were not in the condition of those great princes who had made the French monarchy so low in the preceding century, or like those who reduced the imperial power to a name. They had been brought to moderate bounds by the policy of the first and second Henrys; and were not in a condition to set up for petty sovereigns, by an usurpation equally detrimental to the crown and the people. They were able to act only in confederacy; and this common cause made it necessary to consult the common good, and to study popularity by the equity of their proceedings. This was a very happy circumstance to the growing liberty.

These concessions were so just and reasonable, that, if we except the force, no prince could think himself wronged in making them. But to secure the observance of these articles, regulations were made, which, whilst they were regarded, scarcely left a shadow of regal power. And the barons could think of no measure for securing their freedom, but such as were inconsistent with monarchy. A council of twenty-five barons was to be chosen by their own body, without any concurrence of the king, in order to hear and determine upon all complaints concerning the breach of the charter; and as these charters extended to almost every part of government, a tribunal of his enemies was set up, who might pass judg-

BOOK III. A. D. 1215

ment on all his actions. And that force might not be wanting to execute the judgments of this new tribunal, the king agreed to issue his own writs to all persons to oblige them to take an oath of obedience to the twenty-five barons, who were empowered to distress him, by seizure of his lands and castles, and by every possible method, until the grievance complained of was redressed according to their pleasure: his own person and his family were alone exempted from violence.

By these last concessions it must be confessed he was effectually dethroned; and with all the circumstances of indignity, which could be imagined. He had refused to govern as a lawful prince, and he saw himself deprived of even his legal authority. He became of no sort of consequence in his kingdom; he was held in universal contempt and derision; he fell into a profound melancholy. It was in vain that he had recourse to the pope, whose power he had found sufficient to reduce, but not to support him. The censures of the holy see, which had been fulminated at his desire, were little regarded by the barons; or even by the clergy, supported in this resistance by the firmness of their archbishop; who acted with great vigour in the cause of the barons, and even delivered into their hands the fortress of Rochester, one of the most important places in the kingdom. After much meditation, the king at last resolved upon a measure of the most extreme kind, extorted by shame, revenge, and despair; but considering the disposition of the time, much the most effectual, that could be chosen. He despatched emissaries into France, into the low countries and Germany, to raise men for his service. He had recourse to the same measures to bring his kingdom to obedience, which his predecessor, William, had used to conquer it. He promised to the adventurers in his quarrel the lands of the rebellious barons; and it is said, even empowered his agents to make charters of the estates of several particulars. The utmost success attended these negotiations, in an age when Europe abounded with a warlike and poor nobility; with younger brothers, for whom there was no provision in regular armies; who seldom entered into the church, and never applied themselves to commerce; and when every considerable family was surrounded by an innumerable multitude of retainers and dependents, idle, and greedy of war and pillage. The crusade had universally diffused a spirit of

adventure; and if any adventure had the pope's approbation, it was sure to have a number of followers.

John waited the effect of his measures. He kept up no longer the solemn mockery of a court, in which a degraded king must always have been the lowest object. He retired to the Isle of Wight; his only companions were sailors and fishermen, among whom he became extremely popular. Never was he more to be dreaded than in this sullen retreat; whilst the barons amused themselves by idle jests and vain conjectures on his conduct. Such was the strange want of foresight in that barbarous age, and such the total neglect of design in their affairs, that the barons, when they had got the charter, which was weakened even by the force by which it was obtained, and the great power, which it granted, set no watch upon the king; seemed to have no intelligence of the great and open machinations which were carrying on against them; and had made no sort of dispositions for their defence. They spent their time in tournaments and bear-baitings, and other diversions suited to the fierce rusticity of their manners. At length the storm broke forth, and found them utterly unprovided. The papal excommunication, the indignation of their prince, and a vast army of lawless and bold adventurers, were poured down at once upon their heads. Such numbers were engaged in this enterprise, that forty thousand are said to have perished at sea. Yet a number still remained sufficient to compose two great armies: one of which, with the enraged king at its head, ravaged without mercy the north of England; whilst the other turned all the west to a like scene of blood and desolation. The memory of Stephen's wars was renewed with every image of horror, misery, and crime. The barons, dispersed and trembling in their castles, waited who should fall the next victim. They had no army able to keep the field. The archbishop, on whom they had great reliance, was suspended from his functions. There was no hope even from submission; the king could not fulfil his engagements to his foreign troops at a cheaper rate than the utter ruin of his barons. In these circumstances of despair, they resolved to have recourse to Philip, the ancient enemy of their country. Throwing off all allegiance to John, they agreed to accept Lewis, the son of that monarch, as their king. Philip had once more an opportunity of bringing the crown of England into his

BOOK III. A. D. 1216

family, and he readily embraced it. He immediately sent his son into England with seven hundred ships; and slighted the menaces and excommunications of the pope, to attain the same object for which he had formerly armed to support and execute them. The affairs of the barons assumed quite a new face by this reinforcement; and their rise was as sudden and striking as their fall. The foreign army of King John, without discipline, pay or order, ruined and wasted in the midst of its successes, was little able to oppose the natural force of the country, called forth and recruited by so considerable a succour. Besides, the French troops, who served under John, and made a great part of his army, immediately went over to the enemy; unwilling to serve against their sovereign in a cause which now began to look desperate. The son of the king of France was acknowledged in London, and received the homage of all ranks of men. John, thus deserted, had no other ally than the pope, who indeed served him to the utmost of his power; but with arms, to which the circumstances of the time alone can give any force. He excommunicated Lewis and his adherents; he laid England under an interdict; he threatened the king of France himself with the same sentence; but Philip continued firm, and the interdict had little effect in England. Cardinal Langton, by his remarkable address, by his interest in the sacred college, and his prudent submissions, had been restored to the exercise of his office; but steady to the cause he had first espoused, he made use of the recovery of his authority, to carry on his old designs against the king and the pope. He celebrated divine service in spite of the interdict; and by his influence and example taught others to despise it. The king, thus deserted, and now only solicitous for his personal safety, rambled, or rather fled, from place to place, at the head of a small party. He was in great danger in passing a marsh in Norfolk, in which he lost the greatest part of his baggage, and his most valuable effects. With difficulty he escaped to the monastery of Swinestead; where, violently agitated by grief and disappointments, his late fatigue, and the use of an improper diet threw him into a fever, of which he died in a few days at Newark, not without suspicion of poison, after a reign, or rather a struggle to reign, for eighteen years, the most turbulent and calamitous both to king

and people of any, that are recorded in the English history.

It may not be improper to pause here for a few moments, and to consider a little more minutely the causes which had produced the grand revolution in favour of liberty, by which this reign was distinguished; and to draw all the circumstances which led to this remarkable event into a single point of view. Since the death of Edward the Confessor, only two princes succeeded to the crown upon undisputed titles. William the Conqueror established his by force of arms. His successors were obliged to court the people, by yielding many of the possessions and many of the prerogatives of the crown; but they supported a dubious title by a vigorous administration; and recovered by their policy, in the course of their reign, what the necessity of their affairs obliged them to relinquish for the establishment of their power. Thus was the nation kept continually fluctuating between freedom and servitude. But the principles of freedom were predominant, though the thing itself was not yet fully formed. The continual struggle of the clergy for the ecclesiastical liberties laid open at the same time the natural claims of the people; and the clergy were obliged to show some respect for those claims, in order to add strength to their own party. The concessions which Henry the Second made to the ecclesiastics on the death of Becket, which were afterwards confirmed by Richard the First, gave a grievous blow to the authority of the crown; as thereby an order of so much power and influence triumphed over it in many essential points. The latter of these princes brought it very low by the whole tenour of his conduct. Always abroad, the royal authority was felt in its full vigour, without being supported by the dignity, or softened by the graciousness of the royal presence. Always in war, he considered his dominions only as a resource for his armies. The demesnes of the crown were squandered. Every office in the state was made vile by being sold. Excessive grants, followed by violent and arbitrary resumptions, tore to pieces the whole contexture of the government. The civil tumults, which arose in that king's absence, showed that the king's lieutenants at least might be disobeyed with impunity.

Then came John to the crown. The arbitrary taxes

BOOK III. A. D. 1216

which he imposed very early in his reign, which offended even more by the improper use made of them than their irregularity, irritated the people extremely, and joined with all the preceding causes to make his government contemptible. Henry the Second, during his contests with the church, had the address to preserve the barons in his interests. Afterwards, when the barons had joined in the rebellion of his children, this wise prince found means to secure the bishops and ecclesiastics. But John drew upon himself at once the hatred of all orders of his subjects. His struggle with the pope weakened him; his submission to the pope weakened him yet more. The loss of his foreign territories, besides what he lost along with them in reputation, made him entirely dependent upon England; whereas his predecessors made one part of their territories subservient to the preservation of their authority in another, where it was endangered. Add to all these causes the personal character of the king, in which there was nothing uniform or sincere; and which introduced the like unsteadiness into all his government. He was indolent, yet restless in his disposition; fond of working by violent methods, without any vigour; boastful, but continually betraying his fears; showing on all occasions such a desire of peace as hindered him from ever enjoying it. Having no spirit of order, he never looked forward; content, by any temporary expedient, to extricate himself from a present difficulty. Rash, arrogant, perfidious, irreligious, unquiet, he made a tolerable head of a party, but a bad king; and had talents fit to disturb another's government, not to support his own. A most striking contrast presents itself between the conduct and fortune of John, and his adversary Philip. Philip came to the crown when many of the provinces of France, by being in the hands of too powerful vassals, were in a manner dismembered from the kingdom: the royal authority was very low in what remained. He re-united to the crown a country as valuable as what belonged to it before; he reduced his subjects of all orders to a stricter obedience than they had given to his predecessors. He withstood the papal usurpation, and yet used it as an instrument in his designs; whilst John, who inherited a great territory and an entire prerogative, by his vices and weakness, gave up his independency to the pope, his preroga-

tive to his subjects, and a large part of his dominions to the king of France.

A. D. 1216

CHAP. IX.

Fragment.—An Essay towards an History of the Laws of England.

THERE is scarce any object of curiosity more rational, than the origin, the progress, and the various revolutions of human laws. Political and military relations are for the greater part accounts of the ambition and violence of mankind; this is a history of their justice. And surely there cannot be a more pleasing speculation than to trace the advances of men, in an attempt to imitate the Supreme Ruler in one of the most glorious of his attributes; and to attend them in the exercise of a prerogative which it is wonderful to find entrusted to the management of so weak a being. In such an inquiry we shall indeed frequently see great instances of this frailty; but at the same time we shall behold such noble efforts of wisdom and equity, as seem fully to justify the reasonableness of that extraordinary disposition, by which men, in one form or other, have been always put under the dominion of creatures like themselves. For what can be more instructive than to search out the first obscure and scanty fountains of that jurisprudence which now waters and enriches whole nations with so abundant and copious a flood: to observe the first principles of RIGHT springing up, involved in superstition and polluted with violence; until, by length of time and favourable circumstances, it has worked itself into clearness: the laws, sometimes lost and trodden down in the confusion of wars and tumults; and sometimes over-ruled by the hand of power; then victorious over tyranny; growing stronger, clearer, and more decisive by the violence they had suffered; enriched even by those foreign conquests which threatened their entire destruction; softened and mellowed by peace and religion; improved and exalted by commerce, by social intercourse, and that great opener of the mind, ingenuous science?

These certainly were great encouragements to the study of historical jurisprudence, particularly of our

BOOK III. A. D. 1203

own. Nor was there a want of materials or help for such an undertaking. Yet we have had few attempts in that province. Lord Chief Justice Hales's history of the common law is, I think, the only one, good or bad, which we have. But with all the deference justly due to so great a name, we may venture to assert that this performance, though not without merit, is wholly unworthy of the high reputation of its author. The sources of our English law are not well, nor, indeed, fairly laid open; the ancient judicial proceedings are touched in a very slight and transient manner; and the great changes and remarkable revolutions in the law, together with their causes, down to his time, are scarcely mentioned.

Of this defect I think there were two principal causes; the first, a persuasion hardly to be eradicated from the minds of our lawyers, that the English law has continued very much in the same state from an antiquity to which they will allow hardly any sort of bounds. The second is, that it was formed and grew up among ourselves; that it is in every respect peculiar to this island; and that if the Roman or any foreign laws attempted to intrude into its composition, it has always had vigour enough to shake them off, and return to the purity of its primitive constitution.

These opinions are flattering to national vanity and professional narrowness. And though they involved those that supported them in the most glaring contradictions, and some absurdities even too ridiculous to mention, we have always been, and in a great measure still are, extremely tenacious of them. If these principles are admitted, the history of the law must in a great measure be deemed superfluous. For to what purpose is a history of a law, of which it is impossible to trace the beginning, and which, during its continuance, has admitted no essential changes? Or why should we search foreign laws or histories, for explanation or ornament of that which is wholly our own; and by which we are effectually distinguished from all other countries? Thus the law has been confined and drawn up into a narrow and inglorious study. And that, which should be the leading science in every well-ordered commonwealth, remained in all the barbarism of the rudest times, whilst every other advanced by rapid steps to the highest improvement, both in solidity and elegance; insomuch that the study of our jurisprudence presented to liberal and

well-educated minds, even in the best authors, hardly any thing but barbarous terms, ill explained; a coarse, but not a plain expression; an indigested method; and a species of reasoning, the very refuse of the schools; which deduced the spirit of the law, not from original justice or legal conformity, but from causes foreign to it, and altogether whimsical. Young men were sent away with an incurable, and if we regard the manner of handling rather than the substance, a very well-founded disgust. The famous antiquary, Spelman, though no man was better formed for the most laborious pursuits, in the beginning deserted the study of the law in despair; though he returned to it again, when a more confirmed age, and a strong desire of knowledge, enabled him to wrestle with every difficulty.

The opinions which have drawn the law into such narrowness, as they are weakly founded, so they are very easily refuted. With regard to that species of eternity, which they attribute to the English law, to say nothing of the manifest contradictions in which those involve themselves who praise it for the frequent improvements it has received, and at the same time value it for having remained without any change in all the revolutions of government; it is obvious, on the very first view of the Saxon laws, that we have entirely altered the whole frame of our jurisprudence since the conquest. Hardly can we find in these old collections a single title which is law at this day; and one may venture to assert without much hazard, that if there were at present a nation governed by the Saxon laws, we should find it difficult to point out another so entirely different from every thing we now see established in England.

This is a truth which requires less sagacity than candour to discover. The spirit of the party which has misled us in so many other particulars has tended greatly to perplex us in this matter. For as the advocates for prerogative would, by a very absurd consequence drawn from the Norman conquest, have made all our national rights and liberties to have arisen from the grants, and therefore to be revocable at the will of the sovereign; so on the other hand, those who maintained the cause of liberty did not support it upon more solid principles. They would hear of no beginning to any of our privileges, orders, or laws; and, in order to gain them a reverence, would prove that they were as old as the na-

tion; and to support that opinion, they put to the torture all the ancient monuments. Others, pushing things further, have offered a still greater violence to them. N. Bacon, in order to establish his republican system, has so distorted all the evidence he has produced, concealed so many things of consequence, and thrown such false colours upon the whole argument, that I know no book so likely to mislead the reader in our antiquities, if yet it retains any authority. In reality, that ancient constitution and those Saxon laws make little or nothing for any of our modern parties; and when fairly laid open, will be found to compose such a system as none, I believe, would think it either practicable or desirable to establish. I am sensible that nothing has been a larger theme of panegyric, with all our writers on politics and history, than the Anglo-Saxon government. And it is impossible not to conceive a high opinion of its laws, if we rather consider what is said of them, than what they visibly are. These monuments of our pristine rudeness still subsist; and they stand out of themselves indisputable evidence to confute the popular declamations of those writers, who would persuade us, that the crude institutions of an unlettered people had reached a perfection which the united efforts of inquiry, experience, learning and necessity have not been able to attain in many ages.

But the truth is, the present system of our laws, like our language and our learning, is a very mixed and heterogeneous mass; in some respects our own; in more, borrowed from the policy of foreign nations; and compounded, altered, and variously modified, according to the various necessities which the manners, the religion, and the commerce of the people have at different times imposed. It is our business, in some measure, to follow and point out these changes and improvements; a task we undertake, not from any ability for the greatness of such a work, but purely to give some short and plain account of these matters to the very ignorant.

The law of the Romans seems utterly to have expired in this island, together with their empire, and that too before the Saxon establishment. The Anglo-Saxons came into England as conquerors. They brought their own customs with them; and doubtless did not take laws from, but imposed theirs upon the people they had vanquished. These customs of the conquering nation were

without question the same, for the greater part, they had observed before their migration from Germany. The best image we have of them is to be found in Tacitus. But there is reason to believe that some changes were made suitable to the circumstances of their new settlement, and to the change their constitution must have undergone by adopting a kingly government, not indeed with unlimited sway, but certainly with greater powers than their leaders possessed whilst they continued in Germany. However, we know very little of what was done in these respects until their conversion to christianity; a revolution which made still more essential changes in their manners and government. For, immediately after the conversion of Ethelbert, king of Kent, the missionaries, who had introduced the use of letters, and came from Rome full of the ideas of the Roman civil establishment, must have observed the gross defect arising from a want of written and permanent laws. The king,* from their report of the Roman method, and in imitation of it, first digested the most material customs of this kingdom into writing, without having adopted any thing from the Roman law, and only adding some regulations for the support and encouragement of the new religion. These laws still exist, and strongly mark the extreme simplicity of manners, and poverty of conception, of the legislators. They are written in the English of that time; and indeed all the laws of the Anglo-Saxons continued in that language down to the Norman conquest. This was different from the method of the other northern nations, who made use only of the Latin language in all their codes. And I take the difference to have arisen from this: At the time when the Visigoths, the Lombards, the Franks, and the other northern nations on the continent compiled their laws, the provincial Romans were very numerous amongst them, or indeed composed the body of the people. The Latin language was yet far from extinguished; so that as the greatest part of those who could write were Romans, they found it difficult to adapt their characters to these rough northern tongues, and therefore chose to write in Latin; which, though not the language of the legislator, could not be very incommodious, as they could never fail of

* Decreta illa judiciorum juxta exemplar Romanorum cum consilio sapientum constituit. Beda. Eccl. Hist. lib. 2. c. 5.

BOOK III

interpreters; and for this reason, not only their laws, but all their ordinary transactions, were written in that language. But in England, the Roman name and language having entirely vanished in the seventh century, the missionary monks were obliged to contend with the difficulty, and to adapt foreign characters to the English language; else none but a very few could possibly have drawn any advantage from the things they meant to record. And to this it was owing, that many, even the ecclesiastical constitutions, and not a few of the ordinary evidences of the land, were written in the language of the country.

This example of written laws being given by Ethelbert, it was followed by his successors Edric and Lothaire. The next legislator amongst the English was Ina, king of the West Saxons, a prince famous in his time for his wisdom and his piety. His laws, as well as those of the above-mentioned princes, still subsist. But we must always remember, that very few of these laws contained any new regulation; but were rather designed to affirm their ancient customs, and to preserve and fix them; and accordingly they are all extremely rude and imperfect. We read of a collection of laws by Offa, king of the Mercians; but they have been long since lost.

The Anglo-Saxon laws, by universal consent of all writers, owe more to the care and sagacity of Alfred than of any of the ancient kings. In the midst of a cruel war, of which he did not see the beginning, nor lived to see the end, he did more for the establishment of order and justice than any other prince has been known to do in the profoundest peace. Many of the institutions, attributed to him, undoubtedly were not of his establishment; this shall be shown when we come to treat more minutely of the institutions. But it is clear that he raised as it were from the ashes, and put new life and vigour into the whole body of the law, almost lost and forgotten in the ravages of the Danish war; so that having revived, and in all likelihood improved, several ancient national regulations, he has passed for their author with a reputation perhaps more just than if he had invented them. In the prologue, which he wrote to his own code, he informs us that he collected there, whatever appeared to him the most valuable in the laws of Ina and Offa, and others of his progenitors, omitting what he thought wrong in itself,

or not adapted to the time; and he seems to have done this with no small judgment.

The princes who succeeded him, having by his labours enjoyed more repose, turned their minds to the improvement of the law; and there are few of them, who have not left us some collection more or less complete.

When the Danes had established their empire, they showed themselves no less solicitous than the English to collect and enforce the laws; seeming desirous to repair all the injuries they had formerly committed against them. The code of Canute the Great is one of the most moderate, equitable, and full, of any of the old collections. There was no material change, if any at all, made in their general system by the Danish conquest. They were of the original country of the Saxons, and could not have differed from them in the groundwork of their policy. It appears by the league between Alfred and Guthrum, that the Danes took their laws from the English, and accepted them as a favour. They were more newly come out of the northern barbarism, and wanted the regulations necessary to a civil society. But under Canute the English law received considerable improvement. Many of the old English customs, which, as that monarch justly observes, were truly odious, were abrogated; and indeed that code is the last we have that belongs to the period before the conquest. That monument, called the laws of Edward the Confessor, is certainly of a much later date. And what is extraordinary, though the historians after the conquest continually speak of the laws of King Edward, it does not appear that he ever made a collection, or that any such laws existed at that time. It appears by the preface to the laws of St. Edward, that these written constitutions were continually falling into disuse. Although these laws had undoubtedly their authority; it was, notwithstanding, by traditionary customs that the people were for the most part governed; which, as they varied somewhat in different provinces, were distinguished accordingly by the names of the West Saxon, the Mercian, and the Danish law; but this produced no very remarkable inconvenience; as those customs seemed to differ from each other, and from the written laws, rather in the quantity and nature of their pecuniary mulcts, than in any thing essential.

If we take a review of these ancient constitutions, we

BOOK I. shall observe that their sanctions are mostly confined to the following objects:

1st. The preservation of the peace. This is one of the largest titles; and it shows the ancient Saxons to have been a people extremely prone to quarrelling and violence. In some cases the law ventures only to put this disposition under regulations;* prescribing that no man shall fight with another until he has first called him to justice in a legal way; and then lays down the terms under which he may proceed to hostilities. The other, less premeditated quarrels, in meetings for drinking or business, were considered as more or less heinous, according to the rank of the person in whose house the dispute happened, or, to speak the language of that time, whose peace they had violated.

2d. In proportioning the pecuniary mulcts imposed by them, for all even the highest crimes, according to the dignity of the person injured, and to the quantity of the offence. For this purpose, they classed the people with great regularity and exactness both in the ecclesiastic and the secular lines; adjusting with great care the ecclesiastical to the secular dignities; and they not only estimated each man's life according to his quality, but they set a value upon every limb and member, down even to teeth, hair, and nails: and these are the particulars in which their laws are most accurate and best defined.

3d. In settling the rules and ceremonies of their oaths, their purgations, and the whole order and process of their superstitious justice; for by these methods they seem to have decided all controversies.

4th. In regulating the several fraternities of frankpledges, by which all the people were naturally bound to their good behaviour to one another, and to their superiors; in all which they were excessively strict, in order to supply by the severity of this police the extreme laxity and imperfection of their laws, and the weak and precarious authority of their kings and magistrates.

These, with some regulations for payment of tythes and church dues, and for the discovery and pursuit of stealers of cattle, comprise almost all the titles deserving notice in the Saxon laws. In those laws, there are frequently to be observed particular institutions, well and prudently framed; but there is no appearance of a

* Leg. Alfred. 38. de pugnâ.

regular, consistent, and stable jurisprudence. However, it is pleasing to observe something of equity and distinction gradually insinuating itself into these unformed materials; and some transient flashes of light striking across the gloom, which prepared for the full day, that shone out afterwards. The clergy, who kept up a constant communication with Rome, and were in effect the Saxon legislators, could not avoid gathering some informations from a law which never was perfectly extinguished in that part of the world. Accordingly, we find one of its principles had strayed hither so early as the time of Edric and Lothaire.* There are two maxims† of civil law in their proper terms in the code of Canute the Great, who made and authorized that collection after his pilgrimage to Rome; and at this time, it is remarkable, we find the institutions of other nations imitated. In the same collection there is an express reference to the laws of the Werini. From hence it is plain, that the resemblance between the polity of the several northern nations did not only arise from their common original, but also from their adopting, in some cases, the constitutions of those amongst them, who were most remarkable for their wisdom.

In this state the law continued until the Norman conquest. But we see that even before that period the English law began to be improved, by taking in foreign learning; we see the canons of several councils mixed indiscriminately with the civil constitutions; and indeed the greatest part of the reasoning and equity to be found in them seems to be derived from that source.

Hitherto we have observed the progress of the Saxon laws, which, conformably to their manners, were rude and simple; agreeably to their confined situation, very narrow; and though in some degree, yet not very considerably, improved by foreign communication. However, we can plainly discern its three capital sources:—First, the ancient traditionary customs of the north, which, coming upon this and the other civilized parts of Europe with the impetuosity of a conquest, bore down all the ancient establishments; and, by being suited to the genius of the people, formed, as it were, the great body and main stream of the Saxon laws.

* Justum est ut proles matrem sequatur. Edric and Lothair.

† Negatio potior est affirmatione. Possessio proprior est habenti quam deinceps repetenti. L. Canut.

BOOK III.

The second source was the canons of the church.—As yet, indeed, they were not reduced into a system and a regular form of jurisprudence; but they were the law of the clergy; and, consequently, influenced considerably a people, over whom that order had an almost unbounded authority. They corrected, mitigated, and enriched those rough northern institutions; and the clergy having once bent the stubborn necks of that people to the yoke of religion, they were the more easily susceptible of other changes introduced under the same sanction.

These formed the third source; namely, some parts of the Roman civil law, and the customs of other German nations. But this source appears to have been much the smallest of the three, and was yet inconsiderable.

The Norman conquest is the great era of our laws.—At this time the English jurisprudence, which hitherto had continued a poor stream, fed from some few, and those scanty sources, was all at once, as from a mighty flood, replenished with a vast body of foreign learning; by which indeed it might be said rather to have been increased, than much improved; for this foreign law being imposed, not adopted, for a long time bore strong appearances of that violence by which it had been first introduced.—All our monuments bear a strong evidence to this change. New courts of justice, new names and powers of officers, in a word, a new tenure of land, as well as new possessors of it, took place. Even the language of public proceedings was in a great measure changed.

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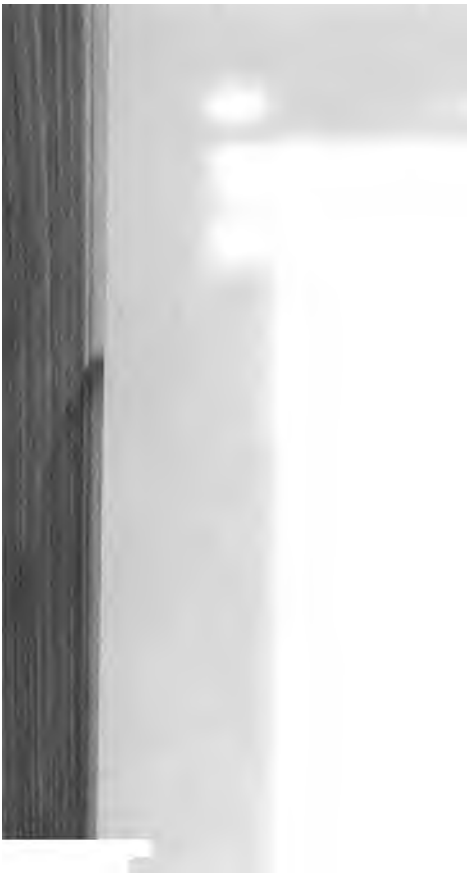

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